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J. MOUNT BLEYER, M. D., F. R. A. M. S., LL D., NEW YORK.

THE PROPOSED LAW TO PREVENT PREMATURE BURIAL.

BY H. GERALD CHAPIN, ESQ , LL. M., OF THE NEW YORK BAR.

"To be buried alive is, beyond question, the most terrific of these extremes which has ever fallen to the lot of mere mortality. That it has frequently, very frequently, so fallen, will scarcely be denied by those who think. The boundaries which divide Life from Death are at best shadowy and vague. Who shall say where the one ends, and where the other begins? We know that there are diseases in which occur total cessations of all the apparent functions of vitality, and yet in which these cessations are merely suspensions, properly so-called. They are only temporary pauses in the incomprensible mechanism. A certain period elapses, and some unseen mysterious principle again sets in motion the magic pinions and the wizard wheels. The silver cord was not forever loosed, nor the golden bowl irreparably broken. But where, meanwhile, was the soul?"

I feel that somewhat of an apology is owing to you—members of the Medico-Legal Society,—for thus beginning with a quotation drawn from so unscientific a source, but the words of that truly great, though somewhat eccentric author of "The Raven," seemed so peculiarly apropos of the present discussion, that they certainly appeared to warrant repetition in this connection. As may readily be seen the immensity of a subject like the present will allow, in the short time at our disposal, of an examination of only the most cursory nature.

There is scarcely any subject, I believe, upon which the medical and scientific world may be said to be more divided than upon the existence or non-existence of premature burial. I say existence, although there are very few indeed that do not concede this point, at least the discussion is more as to the question of the existence of any real

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danger to the community; in other words, whether the danger of premature burial is sufficiently great to warrant legislative action. More interest seems to have been taken in the subject by the medical fraternity of Europe than of the United States, the latter being, as a general rule, somewhat inclined to incredulity. For, as one of our leading physicians remarked, in a recently published interview, "I cannot believe it possible that a person is ever buried alive, at least such a case must be very rare. I never personally knew of such a case, but then the physicians would not be apt to know should there be such a case." He added, that in his opinion the percentage of persons buried who are not dead cannot be one millionth of one per cent. The great majority of the medical fraternity of this country seem, so far as I have been able to discover, to give adherence to similar views. From the very nature of the case, however, exact statistics are almost an impossibility, for the physician cannot follow his patient to the grave. And, while it does not necessarily follow that the fears of the public upon this subject are justified to their fullest extent, there are still undoubtedly well authenticated cases in which premature burial has occurred, to a few of which it would seem advisable to allude at this juncture.

The London Lancet of December 8, 1877, mentions a case at Naples, where upon the re-opening of the coffin, it was discovered that the desperate efforts of the victim to escape had been so great as to tear some of the clothes from the body and even to fracture a number of the bones. It was also stated that under the somewhat peculiar laws existing in that community, the physician who granted the death certificate and the Mayor who permitted the interment were imprisoned for three months for "involuntary manslaughter." In another case mentioned in the Lancet

of November 27, 1857, a girl twelve years of age, apparently died. Her body presented all the indications of death and was removed to another room. It was kept there for more than forty-eight hours, until just before the burial a slight motion of the eyelids was discovered and the supposed corpse resuscitated. Another instance was mentioned by Dr. Oscar Jennings, of Paris, in an interview published in the Paris edition of the New York Herald, and reproduced in the New York Herald of January 13, 1897, where a lady was believed to have died in a Paris hotel. The certificate of death was given and the interment took place within twenty-four hours. Her husband was travelling in Spain at the time and upon being notified of his wife's death, immediately telegraphed to delay the funeral, though it was then too late. Upon his arrival in Paris he ordered the coffin to be opened, when it was discovered that the woman had been buried alive. So dreadful had been the agony suffered that her hands were bitten to shreds and her mouth was filled with blood. Still another instance of suspended animation was that of William Garger who was attacked with brain fever. Doctors F. G. Fulamar, of Dingman's Ferry, and Emerson, of Milford, Pennsylvania, together with two other physicians from New York, were called in. The patient continued to become worse and at last apparently expired. The body was examined and it was announced that all life was extinct. Before burial, however, the father of the deceased went to his room for the purpose of removing a ring from one of the fingers. As the finger had swollen, the ring did not slip off easily and in removing it the flesh was slightly torn and a few drops of blood flowed. A physician being summoned, declared that signs of life existed and a few hours later the supposed corpse revived. These are a few instances taken from the many in which it is believed that a total suspen-

sion of animation has existed, so great as to deceive the most careful. At all events a sufficient number of well authenticated cases have occurred to justify the belief that premature burial has very often happened and the proposition may well be formulated in the words of Mr. Clark Bell, the president of this society, in a recently published interview, that while "there is a strong popular impression that premature burials are more frequent than they probably are, there can be no doubt whatever that these do occasionally occur as has been well demonstrated by the examination of dead bodies in their coffins." (New York Herald, January 14, 1897.) As has been observed by Ziemssen, (Cyclopedia of Practice of Medicine, Vol. 19, p. 451-452.) "The distortion of features and of posture in bodies caused by the distending force of the gases of putrefaction will not account for the instance of bodies found inside the doors of vaults with coffins broken open and every indication of desperate struggles for escape."

In Europe the matter has attracted considerable attention. In France in numerous instances, the Academy or Institute, the State and private individuals, have offered rewards for treatises setting forth determinative tests which would settle beyond all preadventure the question of the existence or non-existence of death. Brouardel, Bouchut, Bruhier, Durand, Thiery and Josat are a few of the many writers who have given attention to this subject.

In Germany, Hufeland, in Weimer, was the means of setting in operation the laws which now prevail there regulating the disposal of the dead and which were soon afterwards adopted at Frankfort, Dresden, Munich and Berlin and to which all of the leading German cities are now subject. The German system, however, is content with preventing premature burial solely by means of the mortuary, and does not provide, so far as I have been able to ascer-

tain, any tests to determine the question of death. It must be born in mind that the German law while a most excellent one so far as the larger communities are concerned, is singularly unsuited to the smaller.

In the preparation of this act, it has been my aim to avail myself as nearly as possible of the experience of the French and German writers, for while in the former country there is not in operation at the present day any such system of mortuaries as exists in Germany, and the laws are in many respects more lax than they should be, still the writings of the various authors that have been mentioned contain many valuable hints for the drafting of a law similar to the present.

Before proceeding further, with the subject, however, it might be advisable to consider an analysis of the proposed act, which was introduced into the Legislature of the State of New York, on March 4, 1898, by Hon. Lyman W. Redington, Assemblyman from the 34th District, a synopsis of which will accompany this paper:

ANALYSIS OF THE BILL PROPOSED.

It is provided that all cemeteries, crematories, or other places for the final disposal or preparation of the dead other than embalming, in cities of ten thousand inhabitants or upwards or wherein the number of interments, cremations or other disposals shall amount yearly to one hundred or more, shall establish a mortuary to be constructed of stone, brick, or metal as far as practicable and to contain rooms of sufficient number to enable every body received thereat to be kept in the manner specified in the act. Such rooms shall be at least ten feet long by six wide and ten high and to have doors leading into a common hall which doors shall be at least six and one-half feet high by four feet wide. Over said doors there shall be a transom at least three feet long by one foot wide to be kept open at all times. The doors are to be kept unlocked and permission to inspect the body deposited in the room given at all hours of the day to relatives and friends not exceeding ten per day. There shall be in each of the rooms a window opening into the outer air of at least two feet wide by three feet high and within the room shall be placed a stand of at least six feet long by three feet wide by two feet high constructed of metal, the top being stone. The temperature of each room shall be kept between sixty and seventy degrees Fahrenheit and there shall be at least one physician in constant attendance with such number of other attend-

ants not less than three as shall be necessary in order that one may be constantly present in the common hall.

No body shall be buried, cremated, or otherwise disposed of before seventy-two hours shall have elapsed from the time of death as stated in the certificate of the physician who shall have attended the deceased during his last illness, or if there has been none, then the coroner of the county. As provided in Section 4 of the act this certificate must be filed with the Board of Health, Health Officer, or other board or officer performing corresponding functions and shall state to the best of the signer's knowledge, the length of time, if any, during which he attended the deceased, the time when he last saw him alive, the cause of death, the date and hour of death or the date and hour before which said death must have occurred, the place of residence of deceased, his full name and sex, his color, whether he is single or married or widowed, his occupation, birthplace and nationality, how long in the United States if foreign born, how long a resident of the City or Town wherein he died, his father's name, his father's birthplace, his mother's name, his mother's birthplace, the place wherein he is expected to be buried and the class of dwelling whether tenement house, hotel, single dwelling or otherwise, wherein he died.* A tenement house shall be considered to be a house or building other than a hotel or boarding house wherein more than two families dwell.

Said certificate shall also contain a statement on the part of said physician or coroner that he has made the following tests to determine the existence or non-existence of death:

1. That he has made two or more incisions in one or more arteries of the deceased and that no blood has flowed therefrom.

2. That he has held the hand of the deceased and the fingers thereof open and the fingers closed together not more than five inches from the flame of a lighted candle, gas, lamp or electric jet and that there has been no transparent appearance existing.

3. That he has held a mirror, glass, or crystal before the lips and nostrils of the deceased at not more than one-half inch distance therefrom and that no moisture or sign of moisture has appeared on said mirror, glass or crystal.

4. That he has twice or more applied to the skin of the deceased a piece of iron or steel red hot, for at least the space of ten seconds and that no blister charged with water has formed at the place where said iron or steel has been placed.

5. That he has examined the deceased and has found a mucus covering the eyes thereof.

The Board of Health, Health Officer, or Board or Officer performing corresponding functions shall thereupon issue a permit allowing the body to be removed for burial or other disposal. No body shall be received at any place for the disposal of the dead unless accompanied by said permit or a certificate of the attending physician or coroner stating the facts specified above and setting forth in addition that there is no Board of

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* In so far as the foregoing particulars are concerned, there is no change from existing law, as the Board of Health in New York City now requires that the death certificate contain statements as to these facts. H. G. C.

Health, Health Officer or Board or Officer performing corresponding functions at the place wherein the decease shall have occurred.

If the body is received at the place for final disposal before seventy-two hours shall have elapsed from the time of death as stated in the certificate, it must be placed in an open coffin and kept until the expiration of that time. A certificate under the hand and seal of the cemetery or other association stating that at least seventy-two hours have elapsed since the date of death specified in the certificate of the physician or coroner shall be filed with the Board of Health, Health Officer, or Board or Officer performing corresponding functions of the city or town wherein the place for final disposal of the dead shall be situated. Such Board or Officer shall issue therepon a permit authorizing the final disposal of the body.

Section Eight provides that in case the cemetery, crematory, or other place for burial or for the final disposal of the dead shall not be one of those previously specified, the attending physician or coroner shall file with it a certificate containing the facts stated in section 4.

All certificates and permits are to be issued gratuitously.

The act is not to apply in cases of Small Pox, Scarlet Fever, Diphtheria, or Asiatic Cholera, nor where there has been the destruction, injury, or severance of any vital organ nor where any body has been found dead the decomposition of which shall be plainly apparent.

Refusal on the part of any officer or physician to certify or to issue permits or false certification is declared to be a misdemeanor.* Refusal to permit the inspection of a body or permitting its burial before the specified time renders the guilty person or corporation liable to a fine of Two Thousand Dollars, an action to recover which may be brought by any person producing evidence upon the trial showing a violation of the act which person shall receive for his own use one-half of said fine.

The act is to take effect January 1st, 1899.

In looking over the proposed law, there are several things that strike us at first glance. Thus, it will be noticed that any association having for its object, the preparation of bodies by embalming, is exempt from the duty of providing mortuaries. The reason of this is that, after keeping the body for seventy-two hours, it would hardly be in condition to embalm, and as, in numerous instances, it is very desirable that embalming should take place, such as in cases where the body is to be transported without the State, it was not thought advisable to insert a provision, the effect of which would be to prohibit embalming altogether. Besides, it is to be noted that the fact that the body is to be

* "A person convicted of a crime declared to be a misdemeanor, for which no other punishment is specially prescribed, * * * is punishable by imprisonment * * * for not more than one year, or by a fine of not more than $500 or both." N. Y. Penal Code, Sec. 15.

embalmed does not exempt the physician from conducting the prescribed tests.

It will also be noted that the cemeteries or crematories are divided into two classes, in one of which, mortuaries are obligatory and in the other, not. It might well seem that there is no sufficient reason why mortuaries should not be established in all cemeteries, for the danger of premature burial is certainly as great, if not greater, in the smaller country towns where physicians may reside at too great a distance from their patients to be able to give them the attention that perhaps the case may demand. Still were every country "graveyard" obliged to furnish a mortuary, it may readily be imagined that by reason of the comparative lack of use to which it would be subjected, these charnel houses throughout the State would indeed become objects of horror. Besides, the friends of the deceased have, of course, the power by postponing the burial a sufficient length of time to cause the question of death to be solved beyound all preadventure, since the roominess of the average country house, would certainly prevent them from being placed under a disadvantage experienced by the dwellers in cities. It should also be born in mind that the tests which must be made by the physician or coroner would furnish to a considerable extent a guarantee against the likelihood of premature burial.

Now as to these tests. They have been formulated after consultation with several physicians and a majority of them are taken from the writings of the various authors whose names have been quoted. It would be impossible to provide for the making of all the tests which it is asserted may determine the existence of death, and therefore a few of what are believed to be the best have been selected. Now it is not for an instant believed that those which have been stated in the act are absolute guarantees of the

existence of death, since so far as it has been my fortune to discover, there does not seem to be any principle determinative of the question except the fact of putrefaction.

As has been said before the portions of the law relating to the subject of mortuaries are modelled almost entirely upon the acts now in force in the various cities of Germany.

Having thus briefly considered the proposed law let me add a few words in closing. It would be too much to assume that this will not be placed by some individuals in the same category with the numerous instances of freak legislation which are occurring constantly in the legislatures of the various states; but this act is far from being novel in its end or ridiculous in its scope. From the earliest times the dread of premature burial has found expression in legislative assemblies. The Jewish and Athenian law required that bodies be kept for three days, the Roman and Spartan for a still longer time. During that period various means were resorted to for the purpose of resusitation. The body was washed several times in warm water, sometimes a finger was cut off or incisions made and it has even been stated that one of the reasons for the historic funeral pyre, was that the warmth would tend to bring back to life a spirit that had not flown. The German Leichenschauer system has proved itself a good one for, as the Burgomaster of Munich observed in a letter which I received from him: "It is on account of these dispositions that cases where bodies are buried before the legal time are not known here."

It certainly cannot be said that the present proposed act has not justified its existence if it saves but one person among the thousands who die yearly within the State, from the horrors of a premature burial.

Permit me, therefore, to close in making use of that oft quoted sentence from Moliere,

"Qui tot enselvit bien souvent assassine,
Et tel est cru defunt qui n'en a que la mine."

NORWEGIAN LEPER LAW AND INTERNATIONAL LEPER LAW.

BY ALBERT S. ASHMEAD, M. D., NEW YORK.

The agitation for international laws against leprosy will still go on. I stand opposed to Hansen's mixed isolation law, which Doctor Ehlers and his friends have had sanctioned by the Berlin Lepra Conference. This law may operate for the benefit of Norway or other European countries; but it will certainly harm the United States. What is wanted is a universal leper law to prevent the emigration of a leper. It is unfair to ask us, as Dr. Goldschmidt does, in his paper read before the Berlin Conference, "*To watch carefully immigrated cases*, and in case of need *give them support, so as to allow them to have a clean, healthy existence, and subject to an easy surveillance members of leprous families, and especially direct descendants as long as as they live.*" Dr. Goldschmidt further says, that in parts of our country situated south of the fortieth degree of north latitude, these measures must eventually be taken against emigration from all infected countries, like China and Norway. "Physicians, teachers, ecclesiastics," he says, "are sufficient for the making of the statistics and the carrying out of the preventive measures." Right here, I am sorry to have it to say, that our points of view differ. Why should we be exposed to emigration of lepers from all over the world? Why should not the country where the contamination comes from be called upon to take some

Read before the Medico-Legal Society of New York, April Session.

of the trouble and expense? Of course, Norway's statistics may still improve, and part of the improvement will be due to the immigration. But Norway's gain will be our loss. Why should not a legislation be brought about, which would make things more equal, and impose upon Norway the duty to retain the leprous, instead of simply imposing upon us the duty of taking care of them when they come to us? That would be inter-national leper law; that is what I advocate. That is what Hanseg, Ehlers and others object to. This is, in fact, the point in dispute, the problem.

I submit the following correspondence:

TREASURY DEPARTMENT,
U. S. IMMIGRATION SERVICE,
CHICAGO, March 1st, 1898.

ALBERT S. ASHMEAD, M. D.,
210 W. 4th St., New York,

Dear Sir:—The immigration authorities at Washington have called my attention to the fact that you have been making considerable investigation concerning the immigration into the State of Minnesota of people afflicted with the disease of leprosy, many of them, it is said, coming from Sæder, Norway.

If it is true that you have interested yourself in this subject, and have any facts pertaining thereto, either in reference to Minnesota or any other portion of our country, I would be greatly pleased that we put ourselves in communication, in the hope and faith that we might be aidful to each other in bringing out all the facts in regard thereto.

Hoping that this will not be considered an intrusion, I am

Most respectfully yours H. C. BRADSBY,
Immigrant Inspector.

NEW YORK, March 3, 1898.

H. C. BRADSBY, Immigrant Inspector,
Chicago, Ill.,

Dear Sir:—In reply to your letter of March 1st, I would direct you first to call on Dr. John B. Hamilton, 61 Market Street, ex U. S. Supervising Surgeon General of the Marine Hospital Service, and Editor of the Journal of the American Medical Association; he will show you a manuscript, (Norwegian Leper Law and International Leper Law), which I have contributed to his paper, in which you will find the position I assume towards Dr. Hansen, the Inspector General of Leprosy for Norway. I claim:

First. That such an insufficient law, as the Norwegian Leper Law, which permits two-thirds of the lepers of Norway to be isolated by their families at home, only 350, as Hansen says, being isolated in hospitals,

could not, in an ignorant and filthy population, as Hansen admits his people to be, result in that improvement of statistics which the Norwegian government flaunted in the face of the world at the Berlin Conference, unless we assume the existence of another factor not mentioned by Hansen.

Second. That this improvement in statistics is due mainly to the wholesale translation of lepers and leprous families to America. We have received 500,000 natives of Norway. Hansen admits that 170 of them were lepers, but cannot, and if he could, I have no doubt, would not say how many of them had suspicious antecedents in regard to leprosy.

Third. Hansen, when he visited this country, in 1888, found, he says, no lepers of the second generation here. This testimony is in my opinion insufficient. I cannot think that it is impartial, for it was to the interest of his government to have this statement made. It behooves our own government to go over this same ground, and see if it finds figures which tally with those of the Norwegian. I think there is something wrong in Hansen's statement, for he makes some observations in order to explain the absence of second generation lepers, (speaking only, I ought to say, of Minnesota, Iowa and Wisconsin), which are altogether futile and wrong. He says that leprosy has not broken out here because the conditions of life of the Scandinavian emigrants have improved here, (they learned, for instance, the external use of water), and the climate of these states is inimical to the bacillus. Now, where is the leprologist who will assert, that if a subject is inoculated with leprosy, climate or cold water will stop the developement of the disease? It amounts almost to saying that leprosy, instead of being, as the Berlin Conference declared, an incurable disease, is in reality, the most curable of all. Go West, young man, might Hansen say to all his lepers.

Now these three states are not the only ones that have received Scandinavian emigrants; as a matter of fact, there is not a state of the Union that has been without its share. What has happened in those regions touched by the Norwegian invasion, which Hansen did not see?

His first assistant told an American physician that we have many lepers here, but do not know it And I believe him. I really suspect that this country is honeycombed with Norwegian leprosy.

Hansen's position, in regard to the idea of establishing a system of internation regulation to prevent the leper emigration from one country to another, is clearly explained, I think, by this liberty, now given to Norway, to relieve itself by spreading the loathesome disease all over the world.

I think that the government should be advised to have this question studied as of national interest in all our states.

Very truly yours,

ALBERT S. ASHMEAD, M. D.

From one of the speeches of Dr. Armauer Hansen, before the Berlin Conference, I beg permission to quote the following sentences:

We have before us two propositions, one of Dr. Ashmead of New York, and the other of Dr. Westberg, of Hamburg, about an international lep-

rosy committee. I have some time ago written to Dr. Ashmead that I do not understand at all what that committee is to do. It cannot, evidently, act in a legislative manner; it cannot prescribe to the governments and parliaments what they have to do. Therefore I do not know why such a committee should be established, and what else it could do, but soiling paper and make fine speeches. It seems to me that the thing is as simple as can be. We have, in Norway, an excellently good experience, and when this experience has been communicated, other peoples may do as they like. If they do not want to follow our example, then they are, as I have told Dr. Ashmead stupid people, and such people cannot be helped. But, according to my experience, people are not so stupid as they are generally supposed to be, and hence I believe that they will do as we have done, and I can assure them that they will soon have done with leprosy.

Here is the famous leper legislation of Norway, contained in the *Leprosy Repression Act*, passed in 1885.

1. All lepers must be isolated.

2. Lepers under the control of the Village Board or Board of Management, and supported by the same, shall be isolated in hospitals or lazarettos; if not there, in separate compartments, according to the opinion of the Board of Health. The Board of Management must, as far as possible, avoid the separation of man and wife against their will.

3. If lepers, not under the control of the Village Board of Mauagement, and who have received notice from the Board of Health to separate from the rest of the family, (which does not refer to married couples), do not comply with such notice, then the Board of Management can force their removal to a public hospital or lazaretto. In such cases the isolation and separation of married couples shall rest with the judgment of the Board of Health.

4. All expenses incurred in the removal of lepers, according to paragraph 3, shall be born by the government; but any leper leaving the hospital or public lazaretto without the permission or consent of the Board of Health, and who should require re-admission and treatment for leprosy, shall be required to pay his own expenses, so far as his property permits.

5. Should any leper refuse to remove when requested by the Board of Health, such Board shall have the power to call in the aid of the police and enforce his removal.

6. All clothing, wearing apparel, and anything used by the lepers, shall not be permitted to be used by any other person, until it has been thoroughly disinfected to the satisfaction of the Board of Health or the doctor. Contravention of this paragraph will render the person liable to a fine or imprisonment.

7. Any medical officer, under the instruction of the Board of Health, traveling in connection with any leper cases, shall be paid his expenses out of the town treasury.

On this system of defense and precaution is founded the claim of the Scandinavians, to be, in those matters of leprosy which have began to be every where the subject of

such anxious interest, the teachers of the world. This is the truth, here is salvation! Whosoever rejects it, is called, with Scandinavian bluntness, stupid, and stupid people cannot be helped. But perhaps the case is not so plain, as these simple sages imagine, and there may be something besides stupidity in the way of reform. There are in India 200,000 lepers whom Great Britain, if she will deserve to be counted among the intelligent nations of the world, will have to isolate and nurse in the Norwegian fashion. "You have here, in Germany," says Dr. Hansen, "in one district about 36 lepers (cries of "15",) this would be the business of a few years for you know that lepers do not live so very long. If these 15 lepers are simply put into an institution of isolation, and well treated you will soon have done with leprosy." Yes, Dr. Hansen, and shall they in the same manner, put into institutions of isolation and well treat their 200,000 Indian lepers, and will they thus soon have done with leprosy in India? The problem considering only numbers, is of enormous magnitude, compared with the circumstances of the little Northern Kingdom. This same Indian problem, if we take into account the nature of the country and the population, if we try to compute the difficulties represented by those stubborn elements, becomes well nigh startling and bewildering. If all the residue of wisdom, that has not been appropriated by Norway, should be brought to bear upon this question, it would still necessitate for its solution, labors and sacrifices, beside which the Norwegian work dwindles into insignificance. Believe me, honest and wise Scandinavians, it was not any deficiency of intellect that caused Jonathan Hutchinson, Sir James Paget and Sir Joseph Fayter, to oppose to the advocates of isolation in London, such a desperate resistance. Believe who will, that the passion of Britons for personal liberty was at the bottom of it. But who can

doubt that more than any thing else, leprosy is shielded against English philanthrophy, by two frightful phantoms; expense and botheration. The people whom these matters concern use their genius in seeking means *not to do it.* There is less trouble and it costs less money, to do in these matters what the old Monk advises: *Sinere mundum vadere quomodo vadit.* It struck many people that the men who had so successfully managed to keep the question of isolation out of Parliament, were comparatively dumb at Berlin, breaking very little of a lance in favor of the ideas which they had so strenuously advocated in London. May I say it without offending any one. They probably thought (and may have smiled contemptuously at the thought,) that the doings or rather talkings of a conference breaks no bones. They will talk enough if the matter is ever brought before Parliament.

Another instance of the difficulties met by other nations than the Norwegian, although gifted with a fair amount of sense and understanding, is Japan. In the first place it has that in common with India, that it is warmer and, to the acclimated portion of its inhabitants at least, comfortable. If the flesh pots prepared for them in public institutions have no attraction, but the reverse for them, there is plenty of space, warm and perhaps pleasant, not a desert, where the leper can enjoy the freedom of his misery. I should not wonder, if the poor lepers of Norway, were glad enough to get under shelter. Moreover there is nothing that the Japanese hides or removes with so much fear and cunning as the existence of leprosy in his own family; any member of it as soon as the impression of the scourge becomes visible on him is borne out of sight, discarded, concealed with stubborn and fierce resolution. The whole family is fanatically leagued for this work of sequestration or expulsion. The result is, of course, a kind of savage isolation, whose

incompleteness forms a strange counterpart to the civilized and deliberate incompleteness of the Norwegian isolation. But what can we say of Japanese statistics in regard to leprosy? It has been often declared that the Japanese are, commercially speaking, rather untrustworthy. I have no experience of this, but I have no doubt that Japanese statistics of their own leprosy are about the most untrustworthy thing in the world.

My object in pointing out these imperfect data of the leper problem, is only to show what huge dimensions it must necessarily assume in some other countries than Norway. But the point which I desire to make here, above all is this: Norway not only had to overcome a comparatively trifling difficulty, but it has done it, as far as it has done it, partly with the help, that is, at the expense and to the detriment of others, before whom she appears now with the authoritative peremptoriness of a teacher. That task which she thinks she is entitled to show us how to accomplish, she has herself made more difficult for us. What do I say? She has created for us the necessity to accomplish it. I now say *we*, and I mean, of course, the United States, whom Norway, while easing her own back, has loaded with no inconsiderable part of her burden. Can any one say, that the beautiful statistics which the leprologists of Norway can spread before the admiring eyes of mankind and of conferences are not partly due to our own stupidity (a stupidity which, however, the somewhat arrogant Scandinavian, judging by his utterances at Berlin, does not seem to be aware of, in the least,) in assuming part of the debt for which he flaunts his receipt in the face of the world, with so much self-complacency? The number of cases has diminished in Norway; yes, but it has increased here. Suppose we should by some miracle, be involved in war with the *King of Sweden*, and,

with strange covetousness of other people's leprosy, should lay hands on all the lepers of Norway, in and *out of* asylums, and carry them triumphantly to our own Minnesota, would Dr. Hansen declare, at the next leprosy congress: Behold, we have now 800 lepers less than in 1897, this is the result of our Scandinavian system? Go and do likewise; do not be stupid any more; *et nunc erudimini.*

Three hundred and twenty-three thousand Norwegian emigrants have come to this country. (Note.—That was up to 1890. As from 1880 to 1890, the time of the last census, the Norwegian emigration to the United States, had increased from 181,000 to 323,000, and judging that the same ratio has continued to the present time, we may reasonably assume that there are *500,000* Norwegians (*born in Norway,*) in this country; in one word, our Norwegian (foreign-born) population, is *one-fourth of the population of Norway.*

The numbers given do not include, I must insist upon this point, the Norwegian children born here, and who may be the inheritors of a leprous tendency. If any body thinks that there is danger for us from the presence of so many people, who must be nearly all members of leprous families, he will be still more startled, if we give the repartition of this population over the United States, showing what a large number of possible leprous centres have been created.

Maine	311	Missouri	526
New Hampshire	251	North Dakota	25,773
Vermont	38	South Dakota	19,257
Massachusetts	2,519	Nebraska	3,632
Rhode Island	285	Kansas	1,786
Connecticut	523	Kentucky	120
New York	8,602	Tennessee	41
New Jersey	1,317	Alabama	47
Pennsylvania	2,238	Mississippi	54
Delaware	14	Louisiana	136
Maryland	164	Texas	1,313
District of Columbia	70	Oklahoma	36
Virginia	102	Arkansas	60
West Virginia	7	Montana	1,957
North Carolina	13	Wyoming	345
South Carolina	23	Colorado	893

Georgia	88	New Mexico	42
Florida	179	Arizona	59
Ohio	511	Utah	1,854
Indiana	285	Nevada	69
Illinois	30,339	Idaho	741
Michigan	7,795	Washington	8,334
Wisconsin	65,696	Oregon	2,271
Minnesota	101,169	California	3,702
Iowa	27,078		

Indeed, indeed, why don't they send the rest of their population to the United States, *omnis exsecrata civitas*, and raise their own statistics to the most ideal state of satisfactoriness!)

A hundred and seventy of them brought well-developed leprosy. These, certainly—if there was an international legislation, which made of the problem of leprosy a world-problem, and not only a national business—would have been kept back. Not only that, but of the rest of the three hundred and twenty-three thousand, and all those who were connected with leprous families, or had been in contact in any way with the disease, would also have been kept back. Many of these emigrants, considering that Norway has only one million, nine hundred thousand inhabitants, would have developed the disease within the limits of their own country, instead of developing it after their arrival here; many others, who did not develop it, thanks to the sanitary conditions of this country, would have developed it in Norway, had they remained and continued in their filthy habits of existence. In corroboration of this last surmise, I quote from Leloir, the great leprologist; "The peasants of that country are unspeakably dirty. Most of them never take a bath; and only once a week wash their face and hands, their feet once a year, their body remains unouched by water from birth till death. Their clothes are generally of wool, and they never take them off in going to sleep; they are never washed, and these same clothes, as long as they are not absolutely rotten, are transmitted

from generation to generation." How would the Norwegian statistics appear had that great fraction of a small nation, inferior in fact in population to New York City, remained in Norway?

There was a time when European Governments quite openly, and I may say, barefacedly sent criminals to this country, glad to get rid of them so cheaply. Norway exports, not crime, but disease. The International idea, the conception that the business of each leprous country is not only to combat the disease within its own boundaries, but to prevent it from crossing them, to keep it a prisoner instead of letting it loose, and free to spread havoc abroad, does not seem ever to have dawned on the mind of Norway. It does not suggest itself to Dr. Hansen, when he states that *one hundred and seventy individuals*, with perfectly developed leprosy, have come from Norway to America. We must, however, admit that this perfect indifference to an important part of the leprosy question is entirely natural. Why should they court the trouble which others are so cheerfully ready to bear for them? Let the lepers go, as long as the United States are content to receive and take proper care of them; it will be time to think of these matters when the Yankees begin to chafe at the unfair arrangement. We, the United States, who suffer under existing conditions, will have to broach sooner or latter, the subject of international legislation, and establish protection instead of free-trade in this matter of disease. This is what the international committee, proposed by me to the conference of Berlin, and the use and functions of which Dr. Hansen could not for the life of him, understand, was meant for. The members of this committee were to propose such arrangements as would effectually prevent the spread of the disease from infected to healthy countries. Dr. Hansen says truly, that these

men could not legislate. But they could propose laws, they could negotiate treaties between the divers governments, and their appointment alone, by itself, would be an acknowledgement by the governments, of their international duties in the matter of leprosy.

I have had occasion to develope in other places, at greater length, the idea of the international legislation, and I do not intend to go into details here. I want only to point out, in winding up this article, the fact that Hawaii has already established it in her relations with Japan. The results thus obtained are also apparent. Even the domestic leprous legislation of the islands, is better than that of Norway. The isolation is not optional, but obligatory. The Minister of the Interior, as President of the Board of health, is authorized to use the land of the government, and to buy private property, for the establishment of leper asylums, in which it is his duty to isolate all leprous persons. They are treated there, with all the science, care and caution, which are to be found in Norwegian asylums.

The Hawaiian Board of Health, by international agreement, has obtained from the government of the Mikado, the privilege of having all emigrants to Hawaii examined before their departure from Japan; recognized lepers are stopped. Arrived on the island, the emigrants are examined again, and when found healthy, admitted, but kept under surveillance, each individual of them, for seven years. In this way, Japanese leprosy has been successfully kept out of the country. Among 28,000 emigrants from Japan, there arrived only six lepers in Honolulu; four were, and two are going to be, sent back to Japan. I consider this as being the dawning of International leper legislation.

LEGISLATION REGARDING DEATH AND BURIAL NEEDED.

BY HENRY J. GARRIGUES, A. M., M. D., PROFESSOR OF GYNECOLOGY IN THE SCHOOL OF CLINICAL MEDICINE; CONSULTING OBSTETRIC SURGEON, MATERNITY HOSPITAL; GYNECOLOGIST ST. MARK'S HOSPITAL, ETC., NEW YORK.

Our legislation as to certification of death and disposal of the supposed dead body is so unsatisfactory that every attempt to improve it must be warmly welcomed.

The only point in Mr. Chapin's paper I do not agree in is the assertion that live burials are frequent. Such allegations are dangerous, in so far as they give the adversaries of the movement in the direction of improvement weapons in hand, with which they gain an easy victory, as shown for instance, by Dr. David Walsh's recently published book "Premature Burial: Fact or Fiction?"

It is not safe to attach much faith to the sensational reports of such occurrences that often find their way into the newspapers. I certainly do not believe premature burials to be at all common. The fact that there is not a single case on record of a person being deposited in German and French mortuaries having returned to life, goes far to show that the event must be exceedingly rare. But on the other hand, the numerous cases of narrow escapes testified to by competent and sometimes particularly distinguished physicians, and the horror of the situation of the person buried alive, ought to surround death and burial

Read before the Medico Legal Society, March Session, 1898, following Mr. Chapin's paper.

with much greater safeguards to avoid terrible mistakes than are found in this State.

Turning from the paper to the Act, No. 1333, Int. 1052, introduced in the Assembly on March 4, 1898, by Mr. Reddington, although it is a step in the right direction, that ought to be taken, still I think it might be improved in some respects.

In Section 4, I notice that the best tests, by which we distinguish actual death from apparent death, are not heeded—namely, stethoscopy, by which we ascertain the condition of the heart and lungs; rigor mortis, the characteristic stiffness occurring in the muscles after death; purple discoloration of the dependant parts of the body, due to dissolution of the blood; and putrefaction, the surest, perhaps the only absolutely infallible, sign of death.

Section 6 prescribes that the body shall be kept 72 hours in the mortuary; but when once we have mortuaries, it seems preferable to keep the bodies there until putrefaction occurs and puts an end to all doubt.

Section 9 prescribes that all certificates and permits shall be issued without charge. As a physician, I beg respectfully to protest against such an unwarranted imposition on the medical examiner. He may have to go to a considerable distance; he has to perform tests that take time, and suppose a special knowledge, acquired at great labor and expense; his certificate forms the basis of all further steps taken, either in the interest of the supposed dead, or of the community in which his death occurred, and most often he has attended the deceased during his last illness on credit, and it is doubtful if he will receive any remuneration for his services. This last service should, therefore, under all circumstances, be paid, and if the estate of the deceased is unable to do so, the fee should be paid by the Board of Health, or a corresponding authority representing

the interests of the community. The fee should be $2.00.

In Section 10 exceptions are made in cases of small pox, scarlet fever, diptheria and Asiatic cholera. In this connection, I would remark that epidemics of Asiatic cholera offer the very conditions of the greatest danger of premature burial. If, on account of the great mortality in such epidemics, the number of bodies in large cities would be too great to admit them to mortuaries, they should not be buried without the tests prescribed in Section 4 or similar ones having been made.

According to Section 11, the physician who violates the Act becomes guilty of a misdemeanor. This may be clear to the lawyers, but we physicians would like to know expressly what the latitude of punishment would be in a given case, for there would certainly be a great difference between a small oversight or neglect and a willful misstatement of facts, or refusal to conform with the Act.

I wish the bill may pass, but I wish also it may be amended and extended. Our present legislation is all in favor of the survivors, care being taken to get rid of dead bodies, but nobody seems to have thought of the fact that death might be apparent, not real.

It is left to laymen to decide if a person is dead. The physician who signs the death certificate need not even see the body, much less make an examination of it, or use any kinds of tests to satisfy himself of the death of the person. Even in the interest of life insurance companies the physician ought to view the body, in order to avoid substitution and fraud.

The certificate of death should contain the declaration that the physician has made a personal examination of the body and found the chief signs of death, which should be enumerated in the blank, and he should answer every question in the affirmative or in the negative.

Signs of death are arrest of respiration and circulation; pallor; loss of translucency of the flesh of the fingers; absence of blistering by application of a hot iron; a different formation of the eschar produced by caustics; bluish or purple discoloration of the dependant part of the body; the appearance of a parchment-like spot instead of a crust on places deprived of their epidermis; the loss of the normal temperature of the body; the dilatation of the pupil and its insensibility to light; absence of the physiological effect on the pupil of atropine—dilation—or eserine—contraction; loss of lustre of the cornea; softening of the bulb of the eye; the appearance of black spots on the white part of the eye; rigor mortis; absence of contraction by application of electricity; absence of a red blush of the skin after subcutaneous injection of ammonia; absence of rust on a steel needle thrust deep into the tissues; absence of green decoloration of the cornea after hypodermic injection of fluorescin; and finally, putrefaction.

I do not think all these signs should be put on the certificate, but half a dozen or so of the best would contain a great guarantee against burial of the living.

If it were found too difficult in small country places to have the bodies examined by physicians, two lay inspectors might be appointed for the purpose of viewing bodies and giving certificates, but in that case putrefaction should be required before a certificate could be signed.

Every bill regulating the treatment of dead persons should make it criminal to do anything to a supposed dead person which would injure or hurt him if he were alive, before the death certificate has been signed by the proper authority. Here in New York the danger of live burial is small, but I do not doubt that many are being killed by the undertakers, who put them on ice before even the natural heat has left them or any competent examination

as to actual death has been made; or by the embalmers, who under similar circumstances inject poisonous fluids into their veins. A supposed dead person should be treated as living until it is certain that he is dead.

INTERNATIONAL LEGISLATION FOR LEPROSY.

BY ISADORE DYER, M. D., OF NEW ORLEANS, LA.

Believing in the spread of leprosy by contagion alone, whatever the method of its conveyance, I am strongly in favor of the segregation of those afflicted. The occasion for popular horror is in no wise abated, as the disease is still incurable, and still presents the features of biblical and oriental leprosy.

While the risk of contagion is less than with syphilis and tuberculosis, a single case acquired weighs more in the question of sanitation, because of the unknown period of incubation, and the possibilities of insidious spread of the contagion through unrestricted intercourse. These conditions obtain wherever leprosy is found, less in some regions than in others, the degrees being governed by the general sanitary conditions and regulations, the habits of the community as to domicile, methods of eating and of living. Leprosy has spread wherever it has been introduced, notably in the West Indies, South America, Mexico, the Sandwich Islands and in Louisiana.

With these preliminary propositions, I submit the argument that pestilence or disease should be combatted with remedial measures, directed at the cure or at the eradication of the disease. Small-pox formerly spread as it was let; isolation of this disease has made its cure possible, has stopped epidemics wherever due care has been exercised.

Read at the April Session Medico-Legal Society of New York, 1898.

Among most of the civilized nations where leprosy is found, the movement is in the direction of the segregation of lepers. In India leprosariums abound, in South America these unfortunates are being gradually separated from their community. In the West Indies, in the Sandwich Islands, in Russia, in Norway and in Canada the lepers are housed apart from their fellows. The Conference of 1897, in Berlin, was held because of the recognition of the appalling proportions of leprous inhabitants on the face of the earth, suddenly realized in all the awfulness of the danger threatening. It took three centuries to eradicate leprosy in Europe, and then leprosy was only of the thousands, while to-day the total is estimated at two millions. It is true that with each country alive to the dangers of the disease, and with each country at work in remedying the evil, the eradication of the disease could and would be accomplished, but not one-tenth of the territories affected are alive to the need of such protection. In China no definite attempt is made to control leprosy nor to recognize it. In Central America and in Mexico the lepers are suffered without hindrance; in France they are not as yet isolated, while in the United States the disease is gradually occupying the country from boundary to boundary, establishing new focuses of contagion, with none but a newspaper protest, that ephemeral, with an occasional expression from a medical body of such importance as the one which met in Washington in 1894, the Congress of American Physicians and Surgeons. They, however, had no political weight, and the memorial at that time addressed to Congress has been quietly consigned to oblivion. Louisiana passed an excellent law, but it has failed of effect, because of political color in its execution, and because of the apathy of the people, of the medical profession, of those empowered with the law, and, finally, of the inactivity of the board directly in charge of

the provisions made by legislative act. Each and every country must be stimulated to concern itself in the matter, it must execute as well as frame and pass laws directed at ascertaining the exact proportion of lepers in the several districts or communities. It must provide asylums on humane lines, with comforts and necessities, to which lepers must first be induced or else forced to go. Then suitable medical and surgical care must be administered. The United States should at once institute a commission on leprosy, composed of men qualified and interested, who shall be willing to investigate in person the localities believed to be or reported as infected. Their work must be thorough, and their report must be complete. Then the government should establish a national asylum, under systematic discipline and medical management, to which lepers should be sent, under the direction of the several states. When each country has so established a national leprosy control, little would remain for international agreement or legislation. Quarantine of lepers should be rigid to the extent of returning all those afflicted to the country from which they come. Quarantine and port physicians, as well as those employed by ships, should qualify themselves in the diagnosis of the disease. All cases arriving at a port should be properly recorded and described, and such report should be sent in duplicate to every port of entry in the country. Each nation should rigidly refuse passports to persons afflicted with leprosy, or belonging to leprous families, and legal restriction, with adequate punishment for infringement, should be placed upon steamships, their owners and officers accepting such as passengers. The investigation of the disease in its numerical occurrences, its types, its amenability to treatment, and the methods employed should be a matter of international study. The results of such in-

vestigations should be distributed by governments to their medical officials, to institutions of medical character and to leading physicians throughout the several countries interested.

Beyond this, I believe nothing practical can be done, nor am I ready to believe that these can be done except by effort and in time.

MEDICAL EXPERT TESTIMONY.

BY J. B. RANSOM, M. D., PHYSICIAN CLINTON PRISON.

Circumstances preventing acceptance of your esteemed invitation to present to your Society at its meeting on the 19th instant, my views upon the best methods for obtaining medical expert testimony, and feeling a deep interest in the matter, I beg to submit the following suggestions upon the pending discussion.

In February, 1895, Drs. C. F. McDonald, H. E. Allison, S. B. Ward, and E. D. Fisher, and myself, were appointed by the Medical Society, of the State of New York, a special committee to report upon the most favorable plan for an improvement in the method of obtaining medical expert testimony.

As chairman of that committee, I at once instituted an extensive correspondence with men in both the legal and medical professions, most likely to make valuable suggestions and render wise opinions. As a result of all this work, a measure was reported, which essentially incorporated the features of the so-called New York Bill, with which you are, no doubt, familiar. This Bill failed to become a law, or even to be reported out favorably by the Judiciary Committee on an alleged constitutional infringement in the matter of restricted cross-examination. Since that time, the committee has been continued, and has restricted its work to a study of the several measures and expressions made in this direction in several States and Societies, and no other measure has been brought forward.

Read before the Medico-Legal Society, January 19, 1898.

My personal views, as the result of three years' experience, are substantially expressed in the following proposed measure. The Bill mentioned above was defective, first, in that it did not define an expert, by establishing a standard of qualification. Second, that it failed to specify as to how the report should be made to the jury or court. Third, the unconstitutional feature of restriction in cross-examination.

Such a measure should provide for the appointment, in criminal trials, of medical experts by the court or presiding judge, who shall appoint such expert witnesses, not exceeding three in number in each case, to pass upon all hypothetical questions. Said experts shall have access to all evidence, and to the person of the defendant, in the presence of all the experts called, as well as have power to examine medical witnesses as to their knowledge of the facts, and also to hear expressions of their opinions relative to the significance of observed facts, when willingly given. It should also be provided that the judge may hear proposals from counsel as to the appointment of experts in any given case. The expert or experts shall submit to the court, for transmission to the jury, a report in writing attested by their oath, setting forth their conclusions, together with the facts upon which they are based. The report shall be signed by all the experts taking part in the examination, providing they agree upon the essential points at issue, if not, a dissenting report or reports may be made by individual experts, the same as opinions are handed down from the Appellate Courts. In case of a diagreement as to essential points; the judge should have power to dismiss the report, together with the experts making such report, and appoint other experts should he deem it advisable. If counsel demand it, these experts may be sworn as witnesses, and cross-examined in such

manner as the presiding judge may deem pertinent and necessary to the case.

The experts so appointed shall be persons of repute, holding a certificate of qualification as hereinafter described, in the particular branch of medical science to which the question calling for expert opinion relates. Compensation for such service shall be fixed by order of court, at a rate which shall be reasonable for professional services of such a nature, and paid in the same manner as other court expenses.

The above named certificate of qualification is to be issued by the Board of Regents, and filed in the County Clerk's office in the county in which the holder of such certificate is a resident, such certificate to be obtained in the following named manner:

The applicant for a certificate of expert qualification shall furnish reliable evidence to the State Board of Medical Examiners, that he is legally qualified to practice in the State of New York, and is of good standing in the medical profession, that he has had not less than five years experience in the practice of the special branch in which he desires to qualify as an expert. On the passing of such examination to the satisfaction of said Board, there shall be issued to him, in the same manner as a license to practice is now issued, a certificate of qualification to give expert testimony in the particular branch or branches therein specified, and when properly filed, all physicians holding such certificate shall be eligible for appointment by the courts, or may be called by the defence as expert witnesses. The testimony of any medical witness called by either plaintiff or defendant, not holding such certificate, shall be restricted to evidence in fact.

It is only by setting up a standard of qualification, that anything like a satisfactory definition of the expert wit-

ness can be made, and it is only through this means that the medical profession and the courts can be protected from a species of so-called expert testimony, which we are strenuously endeavoring to eliminate. Further than this, should all other features of this proposed measure be declared unconstitutional, this one of qualification will stand, for certainly there can be no constitutional objection taken to the qualification of the expert, more than to the qualification of the medical practitioner. This in itself would be a long step in advance.

If judges were always unbiased, were always unmoved by the appeals of partisans and friends, if they could always be relied upon as good judges of the particular qualification of a scientific man, then these requirements of qualification might be dispensed with, but as we know that judges are human and fallible, and the medical practitioner or the courts cannot afford to rest decisions upon anything less than qualified opinions.

It is claimed that appointment of experts by the court does not protect the defendant, but there seems no more reason in saying that both the prosecution and defence should be provided for in the calling of the expert witness, than in that both the plaintiff and defendant should each be provided with a judge. It should also be remembered, that these expert witnesses as appointed are no longer partisan, but are judicial in their functions, and are for the purpose of seeing justice done to all parties concerned. The great burden of opposition to these measures arises, or seems to arise, from the fear that the defence in a criminal trial, shall not have the privilege of calling to his aid the whole population it may be, as experts to testify in his behalf. The expert witness knows nothing necessarily of fact in the case, and his evidence, therefore, was not provided for in the early practice of common law. It

would seem that either side of the case at issue would be more likely to receive exact justice from a non-partisan disinterested board of experts, than from a haphazard promiscuously chosen one of experts of doubtful qualifications, even if paid by their respective sides. It would seem no more a violation of the constitutional rights of the defence for a judge to appoint his experts, than is the action of the judge in deciding the rules of the admissibility of evidence. If the court has a right to determine what is pertinent to the case under the constitution, he clearly has a right to determine a correct interpretation of the facts by a competent body, able to pass upon such facts, and there always remains the right of appeal, and there is nothing in this measure to prevent other licensed experts from being called by the defence.

In formulating any measure, which will most nearly meet the requirements in the direction of the best methods of obtaining medical expert testimony, there are three essential things to be considered. 1st. The protection of the State or People. 2nd. The Accused. 3rd. The Profession. In the suggested measure the first is met by the appointment of all experts by the Courts. In the second, the accused finds his protection in the justice and fairness of an impartial board of experts, to pass upon any and all questions of a hypothetical nature evolved from proven facts, and thirdly, the profession finds its protection in the qualification of the expert appointed.

A great deal of the trouble in the formulating of any satisfactory measure, lies at the door of the law, but it is not altogether with either the legal or medical professions. Before any satisfactory working measure of procedure can be put in operation, there must be a modification of the laws, and to obtain this there must be coöperation of both the professions of medicine and law; neither profession

alone can easily accomplish the desired result, there must be united effort.

There is especially an important feature in the matter of evidence to be determined, and which to properly settle would probably require a change in the rules for governing the admissibility of evidence, and that is the admission of a very important form of so-called expert testimony, which is the expression of opinion based upon personally observed facts, such evidence, however, not being expert evidence proper. With reference to the constitutional right of the defence in calling expert witnesses other than those appointed by the Court, I do not think we need to consider; for so long as a standard of qualification is set up, there can be little feared from a qualified expert in opposition to the regularly appointed expert by the Court. He would stand in an unenviable position, and no doubt after a short time the practice of calling such experts would give place to depending upon the experts appointed by the courts, as I believe the superior opinions rendered would in time come to inspire confidence, and a sole reliance upon their reports to the court.

A bill meeting the above enumerated requirements in some degree would seem to be as satisfactory as could be formulated at this time. It must not be expected that any measure can be framed that will in every particular be perfect, and not open to some objection; it is nearly if not quite impossible to frame any measure, which will not come into conflict with some trifling rule of procedure; but if we are to stop for that, no progress will ever be made in this direction. We must adopt the practice of the courts in other things, and get approximately as near to the perfect standard as circumstances will permit. One great trouble seems to be, that while all are agreed that reform in this direction is necessary and desirable, a revision is

expected without making any changes. Some things must be left to work themselves out in the framing of this measure. It should also be remembered that expert testimony has really no part in a trial by jury, "the expert witness is not called to state what he knows, but what he thinks," (Mather), his function is to pass upon the significance of certain proven facts, and in this respect he is entirely unlike the ordinary witness, and his true function is that of an instructor or adviser to the Court, and this was the original function of the expert, and for this purpose came he to be a figure in the English courts. He should not, therefore, be considered an ordinary witness, but should constitute a part of the Court.

The greatest stumbling block in the way of remedial legislation is the construed constitutional right of the defence. I confess I never knew anything of constitutional rights until I began this work; so much luminosity has been shed upon this feature, so much tender solicitude evinced by certain practitioners of the law in this regard, that I have come to wonder how the rights of the defence ever came to be relegated to the province of the judicature; or how it has ever come about that so many mentally irresponsible individuals have paid the death penalty or been relegated to the grim environment of prison cells. In my meanest moments there have come to me shadowy, occult suggestions that perhaps if there was less contradiction, less confusion in the giving of expert testimony, perhaps there would be less litigation. Notwithstanding unreasonable constructions of the law, notwithstanding the tendency of the legal profession to cling to precedent and historic habit, notwithstanding the laxity, indifference, and opposition of some members of the Medical Profession, notwithstanding the inertia of the Legislature, the consensus of learned opinion is with us in this effort, and I believe that in this State especially we shall soon see spread upon its Statute Books a law which will meet in a large degree the requirements of common justice, and a respectable criminal trial.

SANITY, INSANITY AND RESPONSIBILITY.

BY SIMON FITCH, M. D., OF HALIFAX, NOVA SCOTIA.

An Outline of Definitions and Classification Based Upon Obvious Phenomena.

SUGGESTING A SCHEME FOR DEFINITION, CLASSIFICATION AND DISCRIMINATION OF THE VARIOUS FORMS OF INSANITY, BASED UPON EASILY RECOGNIVABLE SYMPTOMS, WHICH MAY INITIATE A SIMPLE AND PRACTICAL DIFFERENTIATION OE RESPONSIBILITY AND IRRESPONSIBILITY.

MENTAL SANITY is correlation of all the cerebral functions, the lower faculties responsive and subordinate to the higher faculties:

The lower (*effective*) *faculties* being impulses, emotions, intellect.

The higher (*directive*) *faculties*, judgment, reason, conscience.

The will, the executive expression of the higher faculties.

MENTAL INSANITY is irrelation of cerebral functions, the lower faculties irresponsive or insubordinate to the higher faculties

A. *Sthenic irrelation.* B. *Asthenic irrelation.*

1. Lower faculties in fault. 2. Higher faculties in fault. 3. All faculties in fault.

A. 1. *Lower faculties impetuous* and *insubordinate to the will.*

Read before the Medico-Legal Congress, September, 1895.
Read before the Medico-Legal Society, June 15, 1898.

a. Sthenic insanity of impulses,
as destructive mania, kleptomania, sexual mania.

b. Sthenic insanity of emotions,
as hallucinations, megalomania; erotomania.

c. Sthenic insanity of intellect,
as illusions, intellectual extravagance and turbulence.

A. 2. *Higher faculties excited, misdirect the will.*

a. Sthenic insanity of judgment, as delusions.

b. Sthenic insanity of reason, as illogical convictions.

c. Sthenic insanity of conscience, as moral perverseness.

A. 3. *All the faculties tumultuous, the most violent dominating the mind*, as Sthenic general insanity—Mania ferox.

B. 1. *Lower faculties apathetic* and *irresponsive to the will.*

a. Asthenic insanity of impulses, as inertia of instincts and propensities.

b. Asthenic insanity of emotions, as moroseness, defective ideality, hypochondria.

c. Asthenic insanity of intellect, as torpor of perception, inaptitude, incapacity.

B. 2. *Higher faculties atonic, fail to direct the will.*

a. Asthenic insanity of judgment, as incompetent discrimination.

b. Asthenic insanity of reason, as progressive imbecility.

c. Asthenic insanity of conscience, as moral deterioration.

B. 3. *All the faculties inert, the will torpid*, as dementia, idiocy, cretinism.

PHYSICAL INSANITY (insubordination of bodily functions to their governing powers) has phases analogous to various forms of mental insanity, as spasms and convulsions, cor-

responding to sthenic mental irritations A1, 2, 3; paralyses, local and general, corresponding to asthenic mental irritations B1, 2, 3.

RESPONSIBILITY *and* IRRESPONSIBILITY depend upon the condition of the higher faculties.

I. If *the higher faculties*, judgment, reason and conscience *be impaired the subject should* control his actions and *be held responsible*, even if the lower faculties are turbulent, with or without hallucinations and illusions.

A patient, laboring under sthenic emotional insanity, was harassed with appearances of devils urging him to acts of violence, yet his reason discredited them and renounced their suggestions, but had he committed crime under these conditions, he would have been responsible.

II. If *the higher faculties be impaired or perverted the subject* is incompetent to control his actions, and *should be considered irresponsible*, even if the intellect seems to apprehend the character and penalty of the crime. Persons with morbid higher faculties, while conscious of the nature and consequence of their acts, will, without perceptible incentive, attempt most atrocious crimes, as murder and suicide, but for which they should scarcely be held responsible.

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THE PSYCHOLOGICAL SECTION OF THE MEDICO-LEGAL SOCIETY.

The May meeting of the Psychological Section was held May 26th, 1898, at the residence of Dr. J. Mount Bleyer, at 8 o'clock p. m., Vice-Chairman Clark Bell, Esq., in the chair.

A paper, by H. S. Drayton, M. D., of New York City, was read, entitled "*Alternating Personalities.*"

It was discussed by Dr. Wm. S. Watson, of Fishkill; Dr. J. Mount Bleyer, and by the Chairman, Clark Bell, Esq., who referred to the paper of Dr. E. A. Osborne, of California, read before the Medico-Legal Society, of Dr. W. F. Drewry, of Va., before the Medico-Legal Congress of 1895, the well-known case of Mollie Fancher, as reported by Judge A. S. Daily, in his work concerning her, and to several cases cited by Dr. Drayton, while reading his paper, and suggested that a more detailed account of these cases, as an addenda to the paper, would be of interest.

A paper by Prof. Carl Sextus, entitled "*Auto-Hypnotism.*"—"*Self-suggestions and Fixed Ideas,*" was then read by the Chairman in absence of the author.

A paper by Dr. J. Mount Bleyer, upon "*The X-Rays and its Safe Application: Destruction of Infections by Electro-Sterilization,*" was then read. Dr. Bleyer them made illustrations:

1. Showing the effect of the attraction and repulsion of the particles by reversing the poles of the currents in copperas placed in water.

2. Of the actual effects of the electric current on shells, stones, &c., contained in a glass vacuum tube, with most beautiful effects.

3. The operation of the X-Ray without the use of the Rumkoff coil.

Dr. Bleyer announced

A new departure in the use the X-ray, by which he believed that it could be used with absolutely no danger to the patient. His ideas were novel, and he declared that they had been substantiated during a wide range of operations. He declared that what were generally called burns, caused by the X ray, were not burns at all, but inoculations of poison, germs, or impurities from the surrounding air, driven into the flesh by the particles from the light tube.

These inoculations can be safely avoided, through certain precautions. In the first place, he stated that the ordinary induction coil, the Rumkoff, or any like arrangement, should not be used. The amperage or body of the current given by these coils was too heavy, and produced the very conditions to cause inoculations. He advocated the use of a static electric machine for making the rays, the currents given off by these machines being of very high tension but of no body.

He also announced the discovery of a new treatment for burns and all cases of the poisonous bites of snakes and like troubles by electrolysis. He quoted medical authorities to show that death resulting from burns is caused primarily by poison generated in the wound through the action of germs. He said that he had succeeded in sterilizing the poison in burns, both from the X ray and from other causes, by electrolysis.

The X ray was the best, as stated by the observers, they had seen. It was given by a large static machine, and without the Rumkoff coil, showing very plainly and distinctly the entire anatomy of the body, the heart and its action, and many very interesting results.

Section adjourned.

CLARK BELL,
Vice-Chairman and Secretary.

AUTO-HYPNOTISM.

SELF SUGGESTIONS AND FIXED IDEAS.

BY CARL SEXTUS, FELLOW OF THE MEDICO-LEGAL SOCIETY.

Mind and Matter.

"Facts," said Brossias, "are the most brutally obstinate and unyielding of anything in Nature."

"There is a remarkable difference between matter and mind—he that doubts the existence of mind, by doubting proves it."—*Colton.*

The different forms of magnetic and hypnotic influences vary, from apparently complete normal and fully awake conditions, to the deep somnambulistec sleep, in which total unconsciousness and insensibility are present. Modern scientists have given a wide and fully deserved attention to the deep hypnotic conditions. On the other hand, the lighter conditions we know little about; and it has not come within the comprehension of the scientist, or the great public, how, in reality, these different strange conditions play an important part in the opinions and actions of many people, both in war and peace.

Of the soul-life, and its entire mystic activity, we know as yet only very little. The personality, and what we call the free will, so far as most people are concerned, is very definite. In spite of all fancied individuality and personality, it is only too often and to easily influenced from the outside. What we believe to be personal conviction, is in many cases only a self-delusion. From the outside we can be led through suggestions of a stronger will. Opinions are accepted which in reality do not originally belong to the individual, but are called forth through suggestions of a professional experimentalist. The strongest character rules, and it does this even unconsciously. If such a person has a special aim for which he works,

Read before the Psychological Section Medico-Legal Society, May 26, 1898.

then his thought construction is greater, and will consequently bring to bear a still greater pressure on his surroundings.

It is told of King Solomon that one day he was strolling outside the palace, when he heard a butterfly say to his wife: "With one stroke of my wing I could knock down this entire palace." Without waiting to hear more, King Solomon returned to the palace, and summoning his councilors and officers of state, he ordered the arrest of the butterfly at once. Pale and trembling the butterfly was brought before the King. The King charged him with the treasonable remark. The butterfly pleaded guilty. "But, O great King, went on the butterfly, " you are a married man yourself, can you not guess why I said it? My wife was unusually insubordinate this morning, and it was necessary, in order to maintain any sort of discipline, that I prove to her how great was my power. That was why I said it, great King; not from treasonable motives, but in order to maintain my marital authority." The story goes that the King dismissed the butterfly without even so much as a reproof. The story also goes that when the butterfly returned to his wife, and she asked, "Well, and what did the King want?" he replied, "To beg me not to do it."

When any great fact of being is addressed to the attention of men, the most superficial view is always first in common consciousness, and is to that satisfactory. But it requires careful attention and patient thought to grasp all the profound potencies and relations involved, and to deduce the inferences which flow therefrom.

Some advise us not to be too radical in the declaration of the truth. Others say you may offend someone. Of course, you who so think, would offend, simply because of your conservatism. Some say it is better to deal truth out in Homeopathic doses, in sugar coated pellets, so they will not know what it is until after they have swallowed it. If you give them a strong dose you are liable to hurt their feelings. Well, error never likes a dose of truth. Give them the best you have, and never mind the consequences.

Hypnotism is at present the prevailing subject of discussion in the scientific medical world. As yet it is practiced with great caution by those who believe in its merits, for it is hard to overcome the prejudices that have been established by custom. But slowly and surely the feeling engendered by its long association with quacks and those who only used their powers

for exhibitions and evil usages will vanish and the hypnotic science will have its place both in the medical and surgical branches of healing.

Professor P. A. Bernard sought to demonstrate at the San Francisco College of Suggestive Therapeutics that the administration of an anaesthetic for the performance of a surgical operation is unnecessary. He did this by throwing himself into a self,induced state of hypnosis, thus producing anæsthesia, and submitting to such surgical tests as completely removed all doubts as to his utter lack of any feeling while in that state.

Although the French hypnotists have done surprising things, the whole of their experiments were known to the early mesmerists. Particularly is this the case with regard to producing, by suggestion alone, a blister on the human body. As early as 1840, Louis Prejalmini, an Italian physician, mentions that with magnetized paper he caused the same effect as with Spanish flies.

If an idea or series of ideas has thus been accepted by an individual, through suggestion, then he will, on account of the unconscious self-suggestion, to which he is very susceptible, erroneously believe that his thought and actions are free and independent. He thinks he is his own master, and only works according to his own inclination and conviction. If a man's emotional nature is affected, either by animation or anger, or influenced through sorrows or sickness, then he is naturally still more susceptible to suggestions.

Hysterical and weak characters are most easily influenced. To the same class belong the enthusiasts and the visionaries, who are not always in possession of the right mental balance. With these individuals it only requires incidents of a very trivial nature to produce self-suggestions. This is the reason for their strange actions. In their sickly, hysterical state, their fixed ideas carry them away.

The cable was once the medium for a lover's quarrel. which took place between a lady in New York and a gentleman in France. The heroine was no other than that divine French artiste, whose genius we all admire. The gentleman was a dramatic author, now no more. This curious quarrel took place one Sunday, the cable being joined through direct. It bristled with passionate reproaches, bitter, stinging, sarcasms, couched in picturesque French. The scene was intensely dramatic. Both the actors, so near and yet so far, trembled with

jealous passion, as their bitter sarcasms were flashed through the coils of this gigantic sea serpent. Mutual complaints, reproaches, and threats continued, until a last stinging sarcasm from France reduced the excitable artiste to a state of nervous excitement which culminated in hysterics. The cable was then restored to its normal condition and the artiste to her senses.

The will of a person, including his entire mental life, is a causative factor, which compels him to yield to that of someone else, and his impressions and senses are easily formed, according to his own fancy, through the influence of others, or by some unknown dominating thought. A thought, which in a moment unguarded by soul and will, has arrested the attention of the person's emotional nature. In general, the perplexing question, "How is self-suggestion created with people apparently normal?" is in altogether too many cases yet unexplained. In a few other cases the reasons seem clear.

Students of mental phenomena will find somewhat of interest to them in the case of the Bloomington street-car driver who made a heroic fight to keep his cash-box out of the hands of thieves. He was terribly beaten and cut about the head, and, though knocked senseless, managed to keep the box out of the hands of the highwaymen. Then, so strongly was the power of habit, he, though utterly unconscious of what he was doing, completed his run and took his horses to the stable, holding tightly to the cash-box the while. A strange feature of the case was that when he reached the office, to which he seems to have gone purely mechanically, he refused to give up box, making as desperate a fight against the cashier as he had made against the thieves. History abounds with cases of unconscious performance of routine duties, but this case adds to those testimony which seems to prove that what Hume calls habit is not necessarily an impression made by many repetitions of the same act, but may be as well the deep impression made by a single very impressive act.

What do these facts prove? They prove how the mind, through an impression, can be taken captive, and the condition of the body made to harmonize with a predominant idea.

The Rev. William Ready of Dunedin, N. Z., is at present the minister of one of the largest congregations of Australia, numbering nearly 2,000 persons every Sunday evening. A little over twenty years ago he was a waif on the London streets, turning somersaults beside the busses on the Caledonian

road, and picking up scraps of food in the gutters. Between the ages of six and thirteen this was the fashion of his every-day life, and at the end of that period, when he was rescued by a city missionary and sent to an orphanage, he did not know one letter from another. These early experiences, however, put into his blood a sturdiness which has done much for him since in his struggles with hard times. When he entered Dunedin, only seven years ago, he was snubbed and discouraged on every hand, and at his first service gathered only twenty people, but he has worked so hard and fought his difficulties so pluckily that he is now the most popular preacher in that city.

Those who contend we could get on without a language may add another story to prove their point. Everybody knows that in many cases it is not the words used but the manner of speaking which makes the impression. Thus it was that Daniel O'Connell was able to make a market dame rage and storm by calling her a hypothenuse triangle. Some Swedish ambassadors having to present an address, to Louis XIV, which they had forgotten, recited the whole of their catechism, and that did just as well. Prof. Drummond tells us in his "Tropical Africa," he was in a similar fix, and got out of it in a similar way. On one occasion four of his carriers ran away. There were three others of the same tribe in the company, and though the professor knew nothing of their dialect, he determined to teach them a lesson. Beginning with a few general remarks on the heathen, he briefly sketched the geology of Africa, and then broke into an impassioned defense of the British constitution. The three tribesmen trembled like aspens. He concluded his reprimand by solemnly enunciating the forty-seventh proposition of Euclid, and the result of the awful admonition was that the men became the most faithful he had.

Suggestions to children, young soldiers, and clerks, who are but little independent, and being used to obey others, are most readily accepted. Therefore, teachers and commanders have, through their authority and power, only too much of an occasion to influence in a strong degree the pupil, or the inferior. If the teacher, at the same time, is a person who is richly endowed with personal magnetism and hypnotic ability, he will then unconsciously to himself, produce different forms of self-suggestion, and even milder mesmeric conditions.

Provided that such a person is somewhat experienced, he will with ease produce lameness, withdraw the memory of cer-

tain words or figures, arouse sensations of thirst and cold, but certainly only of short duration. So deceivingly similar is this suggestive condition, to the hypnotic, that it often takes an expert to distinguish between them. Therefore it is no exaggeration when I state, that at least ten out of every hundred persons are susceptible to suggestions to such an extent that they, through a firm, decisive way of acting, can be easily ruled and guided. The more energetic and determined this action, the more easily and better is the result reached with these individuals.

The reader must constantly bear in mind that these persons are all seemingly wide awake, and at the same time evidently under control, in a few cases even as completely and easily controlled as in the fully-hypnotized individual.

In order to make myself better understood in regard to producing imagined deafness, attacks of laughter, or lameness, I will remark that the person who would successfully produce these cases, must tolerably well understand the matter and how to experiment. We must keep in mind that some of these cases can also be produced unconsciously by the especially magnetically-endowed experimentalist. Beyond doubt, there are many cases in which a person, richly gifted by nature, never had any knowledge of his own remarkable ability and therefore never fully understood the results which this gift yielded.

The so-called education of the people is in accord with the experience that has been made up of a hpynosis, having its suggestive power in the thought, project, expedience, and force of conquest and corporate rapacity. It has acted as a monstrous psychic catapult and has produced a stupefaction and subservience analogous to that obtained during the war when the greatest distress was frequently aroused amongst the slaves by fear that they would be freed and have nobody to look after them. To many slaves the thought of freedom was obnoxious and their economic state, to them, appeared the best that nature or man's fore-thought could provide albeit their remained some objectionable features.

Personal Magnetism of Great Men.

In this class are such characters as Napoleon I, Generals Grant, Garibaldi and Boulanger; of the more peaceful charmers, men like Lincoln and Gladstone; and in the commercial world

belong such men as Jay Gould, Baron Hirsch, of Paris; Marshall Field of Chicago; the renowned Russell Sage, John D. Rockefeller and others.

These men have all reached fame in their respective positions, and the remarkable result gained by their indisputably great ability, whenever they appeared and in whatsoever they undertook, is well known.

Just to name an example. History has shown us what a magic effect was produced by the personal presence of Napoleon wherever he appeared, be it on the battlefield or in the council chamber. It only required that he gave motion to his mighty will, the effect followed, visible and plain, and everything and everybody bowed to his great mystical power.

It is said that Napoleon once stood before the guards, and asked for a hundred men to lead a forlorn hope. He explained that every man would doubtless be killed the moment the enemy opened fire. Now, who would die for the emperor? "A hundred men forward! Step out of the ranks." And not a hundred men, but the whole regiment as one man, sprang forward in solid line and rang their muskets at his feet. What was the secret of this? Hypnotic force and personal magnetism. He was, so to speak, an electric battery, which with the speed of lightning transferred his wishes and the utterances of his will. Herein remained the secret of his wonderful success.

Enthusiasm is a flame which leaps, not from mind to mind, but from heart to heart. It is blown from intense heat by a single heroic example more than by all proverbs.

Every sensitive or impressible person can feel the magnetic radiation of others, sometimes a long distance off. Sometimes they are so charged with them that they go to sleep when they do not believe it possible that anyone can put them to sleep.

A person can psychologize himself to believe a certain theory so strongly as to become unconscious of many facts all around him that entirely subvert it.

Jay Gould, who from a poor and unknown young surveyor, gradually grew to be one of the richest men in the world, knew how to use this power to the best advantage. He was always the master of the situation. It was, therefore, not without reason that he was called the "little wizard." There is no doubt but that he would become great on whatever road he had started, whatever had been his aim or his purpose in life, be-

cause he had a strong will-power—was magnetic and a man of suggestions.

Great men and great faults follow each other, but fortunately there are exceptions also in this realm. In order to be a great man, it is necessary to be an unusual man. To be an unusual man, the individual must possess unusual abilities. Genius and unusual faculties often produce abnormal indifference as to details, ways and means, if only particular ideas and aims are realized and reached.

The faults that may cling to certain successful men (seen through common glasses) are of course, here left out of consideration. Whether or not, certain actions and doings of a great man could be severely criticised, has no relation to the views I have brought forth. What I have attempted is, only to suggest some of the possible reasons for their success, from a hypnotic and magnetic point of view. We must remember that personal magnetism, the right suggestions and success, are all in the same line.

Mgr. Dillon, a French sporting bishop of the Seventeenth Century, was fond of convivial company. On a Sunday, after a perfunctory mass, to which his worldly congregation listened vaguely, while perusing the lightest of novels, the horns were gayly tooted and the horses were led into the chateau yard. When Louis XIV remonstrated saying, "My lord bishop, how is it you hunt of a Sunday and yet forbid your curates to follow your example?" He answered: "Because, your majesty, they have but their personal vices, but I have those of my ancestors.

In the light of modern psychology and psychical science the human body is literally, a breathing house, as Coleridge calls it, not made with hands, but slowly adapted to the temporal and temporary use of the spirit of inner man, who peers through its eyes as windows, makes the hands the executive organs of his will, the tongue the exponent of his thoughts and ears and nostrils the avenues of distinct classes of sensations pleasureable or otherwise. Brain, lungs, stomach and heart are all organs of spirit, each with a special significance and function. The brain is as supreme in position as it is in function, it being the capital or crown of the corporeal shaft, and the chosen seat, with its intricate nerve labyrinths of the mind which is enthroned in it as a citadel.

In the strictest sense, all our experiences are mental. Play i-

cally speaking, the eye does not see; the ear does not hear; the hand does not feel. It is the mind within that sees, hears, feels, etc., through these organs as the medium of communication with the outer world. In other words, your body is simply a medium for your spirit, and under all ordinary circumstances, it is a better medium for your spirit than for any other spirit, because more readily controlled by yours. I have said "your spirit," but a moment's reflections will convince any person that one of these is a superfluous word. In short, your spirit is you. You are as much a spirit to-day as you will be a thousand years hence. Learn to regard yourself, then, just what, in fact, you are—a spirit controlling a body as a medium —and much of the mystery of metaphysics will instantly vanish.

That which brings home to our consciousness the greatness and vastness of God's realm of life and nature, even though we see it not all with our eyes, nor hear it with our ears, nor touch it with our hands, is something more than mere impractical theory. Who does not realize that there is vastly more to God's great universe than what we see in the dust and matter about us?

The ancient sages inscribed upon a temple the supreme injunction, "Man, know thyself;" and Pope, was it not? reaffirmed that sentiment in later times, in that oft-quoted phrase; "The proper study of mankind is man," the spirit of which injunction the anatomist, physiologist, biologist, ethnologist and theologian have each, in their own way, endeavored to obey. Truly our knowledge of one side of man's nature, the material side, has been enormously advanced during the present century, but mainly on his material side, it must be confessed. But, when it is attempted to reduce consciousness, emotion, thought and will to mechanical equivalents, and express the results in the terms of chemical and kinetic energies, the results are hardly satisfactory to us, who wish to get nearer the *why* men think, act and feel, as well as to know *how* they proceed in so doing.

Self-Suggestion and Energy.

As far as some prominent men are concerned, who in a brief period have arrived at prominent positions in society, there is one thing which we must not forget, namely, that they often, during the race to get first place, simply disregard that humane

consideration which they owe to their fellowmen. The main reason can be sought in this: that nearly all who seek for power are of a certain sanguine, nervous temperament, which is the main base for their energetic activity. If we put into connection herewith, the unconscious self-suggestion under which they work, and which in fact they are susceptible to, then the result is plain to see.

The normal sleeper receives his suggestions through himself. through the sensations of his organism, and his general turn of mind, which latter factor preserves its influence even during sleep. The hypnotic sleeper receives his suggestions through the physician. Ordinary sleep is auto-hpynotism of a very light kind; it can, therefore, be regarded as the first step, and may be deepened and converted into the real hypnotic sleep.

The whole phenomena rests on the same basis of absolute fact, and are not open to be made a question of relative belief by those who recognize no facts to go upon, and, therefore, refuse to believe, or those who, having no belief, altogether deny the facts, or those whose professed belief is for the first time tested in the presence of facts.

A man has been arrested at Washington who claimed to have a message for the President from Jesus Christ. He is an impostor. The only messages received by the administration are from Mark Hanna.

A New Orleans man became insane on hearing that he had inherited $20,000. A kind of "capital" punishment, as it were.

When an impulsive person employs his brain machinery too exhaustively, (he has never any time to rest), then he will naturally, not only be easily excited, but more or less one-sided, egotistical and unreasonable. The aim of such a person is a fixed idea, which as a consequence of self-suggestion, accompanies him everywhere, whether awake or dreaming, and hence he lives and breathes only for its realization. He ceases to be non-partizan; he sees only one side of the question, the success, and everything that is necessary and stands in connection therewith. Everything else is beyond his sight. He has no time to observe, and less time to be considerate. He is, in short, blind and deaf to everything but success. He is fascinated with his own ideas, which unconsciously to himself, has deprived him of self-control, and involuntarily he must run out the line at any hazard. The bow is stretched to over-exten-

sion, and the balance is disturbed. They live as in a wakeful dream, whose main feature is their pet idea of self-suggestion. If the man succeeds, we call him a genius; if he fails, he is a crank. Genius or crank, nervous or energetic, all according to success and circumstances.

Such people have this remarkable advantage on account of their great self-reliance and strong thought concentration on this special object, that they, through the aid of these faculties, involuntarily psychologize the less strong persons with whom they come into contact; but most remarkable is this, that they unconsciously are, themselves, psychologized through their involuntary thought concentration and vivid interest in their own idea. Probably self-distrust is one of the readiest causes of failure. A man who, however much he conceals the fact from observation, feels in his heart of hearts that he is not capable of doing the work that he has undertaken, is almost sure to fail. Ordinary diffidence as to one's powers is quite another matter, and by no means a necessary impediment to success. Such nervousness is often purely superficial and merely means that the anxiety to succeed is so great that it causes a reaction. The dangerous self-distrust to which we are alluding is a much more negative quality, and generally has joined to it a strong chain of indifference. But when a man does not think he will succeed, and also is doubtful whether it is worth while to succeed, or rather whether it is not a matter of indifference whether he wins or loses, failure is almost certain. This stultifying indifference to failure is much more widely spread than people generally imagine. Because failure seems to the average man so horrible, producing, as it must, humiliations and miseries, remorseful feelings and regrets of every kind, the average man cannot imagine any human being indifferent to it. Yet, as a matter of fact, there are men whose hearts become so indurated, that they do not mind either failure or its consequences. They would endure anything rather than rouse themselves to the painful effort of resisting the march of what they call fail. They will float with the stream or tide, but, come what may, they will not row a stroke against either. If you are one of the fortunate ones, financially, educationally, intellectually, or morally, you have a trust reposed in your hands to uplift others. If you use your means, talents or gifts selfishly, for your own personal aggrandizement, you will regret it later on, when your eyes are open to the great possibilities

beyond, and how much farther you could be ahead if you had only used them rightly. Forewarned is forearmed. It is better to have no regrets.

There are many around you needing your assistance, for in the present stage of civilization, you have the poor, sick and anguished souls with you. Be their comforter. But you can not do this if you are yourself in distress or sickness, either mentally or physically. The spiritual disturbances are harder to overcome than the physical oftimes, and need more patience, courage and moral strength. The true character acts rightly, whether in secret or in the sight of men. That boy was well trained who, when asked why he did not pocket some pears, for nobody was there to see, replied, "Yes, there was, I was there to see myself; and I don't intend ever to see myself do a dishonest thing." This is a simple but not inappropriate illustration of principle, or conscience, dominating in the character, and exercising a noble protectorate over it; not merely a passive influence, but an active power regulating the life. Such a principle goes on moulding the character hourly and daily, growing with a force that operates every moment. Without this dominating influence, character has no protection, but is liable to fall away before temptation, and every such temptation succumbed to, every act of meanness or dishonesty, however slight, causes self-degradation. It matters not whether the act be successful or not, discovered or concealed; the man is no longer the same, but another person; and he is pursued by a secret uneasiness, by self-reproach, or the workings of what we call conscience, which is the inevitable doom of the guilty. One bad feature in a human make-up does not constitute the whole being. This may only constitute one-tenth of the entire man or woman, the other nine-tenths being good. In this event, such a person will not "be found wanting," for the balance will be in favor of good. The uncharity of overlooking nine virtues for one vice may be nine-fold worse than the evil we are censuring. Let us, therefore, be charitable. It is not the soul or spirit that is bad in such cases, but the body, which is not of our own making, hereditarily considered. Total depravity is where a man will not be good in any respect. But are there such? An ordinary bad man is he who has a balance in favor of vice or evil, or delights in being governed by his passions. Conscience is the voice of the soul; the passions are the voice of the body. Is it astonishing that often these two languages con-

tradict each other? Then to which must we listen? Too often reason deceives; us we have only too much acquired the right of refusing to listen to it, but conscience never deceives us; it is the true guide of man; it is to man what instinct is to the body, which follows it, obeys nature, and never is afraid of going astray. Be kind to the aged. How few think of this and treat with due consideration those who have outlived their generation, and whose early companions and friends have been taken from them. Unable to engage in the activities of life, they are no longer brought into contact and sympathy with those around them, and no tie of common interest and mutual dependence binds them together. Their views and tastes have naturally grown apart. They share but little in common with others. The future of this life has nothing to inspire their ambition or excite their hopes. What calls forth the energies of others has no inspiration for them. They necessarily, to a great extent, live in a world of their own, with which those around are not familiar. The communion of their hearts is with the scenes of the past, and the companions of other years who have long ago passed away. Lover and friend have been taken from them, and their acquaintance laid in darkness. The forms they admired and loved are gone, and eyes that looked into theirs with the tenderest affections are sightless, and the voices that cheered and stirred their souls have long been silent. Their early world of hope and joy has become a desolation, and they in silence contemplate the ruin that has been wrought. They have but little to interest them in the world. They are pilgrims and strangers here.

"Only waiting till the shadows
Are a little longer grown,"

to finish their course and rest from their labors. Who would not do what he can to cheer the loneliness of age, to smooth their pathway, and comfort them in their declining years?

The individual who has reached or passed mid-life in looking backward must needs mark many a turning point in his career, when for some reason or another, through ignorance, indifference or supineness, he let slip an opportunity, which, improved, might have influenced most favorably his whole future. These lost opportunities are in many cases the source of deep regret, and when missed through unwillingness to make needful sacrifices, or through slothful self-indulgence, they are properly the occasion of unavailing regrets. The genial spirit sweetens

life, and brings out the best of every one; the critical spirit engenders bitterness and strife. After all, love and sympathy bless and comfort all of us. It is care that kills. One that deliberately cultivates a disposition to throw care to the winds, soon becomes an indispensable person to his friends. Care is worry, pure and simple. The burden that causes us to worry is heavy, without adding to it that of all engrossing care, which never lets the mind rest for an instant. Suppose you do "have troubles of your own." Can you cure them by worrying? One's best effort to overcome the trials and tribulations of this life is all that is demanded. If that effort surmounts the difficulties, well and good. If it fails, the fret that wears wrinkles in one's soul, the worry that makes us hated by our friends, the care that wears deep furrows on the brow, do not help one out of the slough of despond, but rather bury us the deeper.

The world gets very tired of men and women who placard their woes on their faces, and moan it in their voices in hourly conversation. But the world dearly loves those people who are merry and companionable, even when grief is gnawing deep. We owe something to society, to the world of people about us, and have no right to make ourselves public nuisances because the clouds obscure the sun. We are warts on the stricken, stunted tree—the thorns and thistles of uncultivated fields; the starvelings of materialism; the wanderers in the theological wilderness, and rebels against usurped authority; we club together the excrescences of character, that could never attain its natural growth under the old cramping conditions. There are some minds so constituted that no evidence whatsoever can prove to them their immortality, and there are minds so constituted that no evidence at all is required to convince them of their immortality. Organization and development must be considered when looking about for the causes of mental activity. The soul, looking through the mediumship of matter, perceives according to the grade and unfoldment which it has attained. It recognizes what has already been acquired in its school. Looking, as it does, through physical lenses, what is seen partakes in its recognition of just that amount and degree which is equal to its sensitiveness. Like the prepared plate in the photographic camera after being subjected to rays of light, there are found impressions due to its prepared negativeness. The finer the soul, or the better the sensitive plate of the camera, the more can be received, recognized, and made a fixity.

The same physical view seen by different souls, or that which may be impressed on differently prepared negatives, is found revealed in the ratio of fitness and receptibility, and it might be added assimilarity. In all cases the outlines may be identical, but the fillings in, the depths and shades, vary according to the degree of receptibility. The Pharisee or knave of our day, who teaches or professes what he is not sure is truth, has taken the same stand as the agnostic. Still he seems to have an idea of good, since he is making what the world calls a good thing out of it. So has the agnostic an idea of good. (Ignorance is indeed a vice.) They have both fallen on the stumbling block of intellect, in so far they have been unable to define good, or as we commonly say, they do not know what is good for them. Where work wears out one, worry wears out thousands. There is less happiness among the great than among the humble, among the rich than among the poor. "But if these limitations could only be removed!" "If I did not have to work so hard!" "If I could be my best self!" "If I could have that for which I know I am fitted!" Ah, greatness of gift always implies greatness of responsibility; if one limitation goes, another comes; that which seems to give freedom only increases slavery. Almost all men, like birds, beat themselves against their cages, longing to get into some different world, to soar beneath some more splendid skies, ignorant of the abysses in that larger world, and of the storms which sweep those skies. A short time before Dr. Charcot died, he said in a lecture, that semi-scientists had for more than fifty years ridiculed the idea that the full of the moon was a dangerous time for mad people. Better informed men are coming back to that old time notion, said Dr Charcot, as the result of increased learning on the subject of earth tides, similar to the oscillation of sea tides. When we descend from our celestial soarings, filled with awe and wonder, and view the earth, we find order there also. We see variety, which when classified, still reveals order. We behold the high snow-capped mountains, the deep verdant valleys and fertile plains, the tall, towering pines and cedars, the tiny spires of grass, with the modest little flowrets nestling closely by their sides; the wide, deep ocean, with its tides in regular order, rushing against its rock-bound shores, echoing the voice of God, with its winds and waves chanting in deep basso tones the requiems of those who sleep in its embrace. We see the broad rivers, bearing upon their bosoms the inland commerce

of the world, as they flow orderly and noiselessly towards the sea. We see the purling brooks as they dash over their pebbly bottoms, as if in haste to add their parts to the music of the spheres. We view the placid lakes as if they were seas of glass, reflecting the sun, moon and stars, as they in their order present themselves before them to receive the image of their glory. We find the gurgling springs, hidden in some cool, shady nook, voicing forth the melody of nature, and inviting the thirsty ones, from the wild, timid gazelle, and bright-eyed Indian maiden, to the fair-faced sons and daughters of civilization, with their flocks and herds, to drink their pure, life giving waters. In the heat of summer, or the frosts of winter, they offer their cups of nectar, fresh from the breasts of nature, to give renewed strength to the wearied traveler, or cool the parched tongue of fever. When we look at the mountains, seas, lakes and rivers, or even the unpretentious springs and spires of grass, we behold order revealed in them all; they each have their bounds, and each performs its part in fulfilling the purpose for which it was designed. When we leave the contemplation of the heavens, and casting our eyes over the earth, not the least of all the objects which strike our sight is man, said to be the crowning point, the apex of the pyramid of all things which have been evolved from the Divine mind. When we look at him, we perceive order applies to him also, so perfect is he in all his intricate mechanism. Every part of his physical frame is so perfectly adapted to the purpose for which it seems to have been intended. The bones, requiring strength, are round and hollow, as has been discovered the best shape for supporting great weights; the nerve centers in the brain protected by a bony covering; the heart, in its central position, with its surroundings of overlapping timbers, as it were, to keep the currents of life from harm; the stomach and its viscera, as the fire-box, to keep the whole engine of life in motion by selecting and diffusing heat and strenth to all the wearied nerves and worn-out corpuscles of the whole machinery of the house we live in. When we look at man in all his organism, and study the intricacies of his physical frame, the delicate nerves of the eye and ear, the muscles upon which the heart is hung, we are prone to say with Israel's sweet singer, "Man is fearfully and wonderfully made." This brings us to a point where we are confronted by the vital question of origin:

[*To be continued.*]

ALTERNATING PERSONALITIES.

BY HENRY S. DRAYTON M. D., OF NEW YORK.

The discussion of those cases in which the expression of character undergoes very marked alterations, to the extent it may be of complete reversal of a recognized disposition, involves several distinct theories of causation. We have, for instance, the hypnotic or suggestion theory, which would appear to go a long way toward accounting for the changes. In this we must assume a modification of the relation and activity of the mind faculties, a re-grouping of the forces dominating in the life of the individual, so that traits previously marked in the conduct become passive or subdued by the energetic expression of traits or qualities that had hitherto performed a secondary or indifferent part. In other words, what was strong and salient has become suddenly weak in influence, and what was weak has become strong and dominant. Such a change would give necessarily the appearance of a new personality to those acquainted with the individual, and operate as a surprise, even to those most familiar with him. We may assume that suggestion in many such cases acts immediately; that some person known to the individual under hypnotic control is the object or model of imitation. Of course the same result may obtain in auto-suggestion, although it is but rational to assume that there was some powerful exterior influence that gave direction to or colored the suggestion.

That was a very interesting case—in which Prof. James, of Harvard, took part in investigating, of the man who suddenly left his home in Northern Massachusetts, and went to Norristown, Pa., where he engaged in the hat and cap business successfully for three years, under a name entirely different from his own.

One day, while at the table in the hotel where he was boarding, he suddenly astonished those present by asking where he was, and insisting that his name was not that by which he was

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known in Norristown, but that it was so and so, and that he lived or belonged to a certain town in Massachusetts. The three years he had spent in the Pennsylvania city had suddenly become a blank in his memory.

This we know to be the case as a rule in the transfer of consciousness, that there is a complete loss of memory of what occurs in the secondary state or personality. However, in experiments with hypnotized persons, the trance state may present degrees of advancement in which the two memories, so to speak, of the normal mind condition and of the secondary, may be associated. This occurs, so far as my experience goes, in cases of incomplete hypnosis, the state of trance presenting a passive, mechanical docility on the part of the hypnotic.

The Norristown case belongs, doubtless, to the category of auto-suggestion, its events indicating a cumulative result. The man had been accustomed to dwell upon the necessity or expediency of making some change in his business and social relations,led to this, we may assume by certain,to him, unpleasant circumstances. The intensity of his thought in this direction finally terminated in a crisis of physical experiences, and a mental revolution. This hypothesis would largely resolve the riddle of it.

The theory of inhibition or suspension of activity of certain faculties has its advocates in an attempted explication of the phenomena of change in personality. In somnambulism we may have the induced trance and the subjected will, so far, an inhibition of self-control, but I am not so sure of the suspended activity of a group of faculties; for the somnambule may exhibit an exaggerated degree of intellect and emotion, and greatly exceed the mental capacity of the ordinary state. "How," as one writer pertinently asks, "Can the mental faculties be increased by rendering some of them inoperative?" We may speculatively answer the query by saying that the controlling stress of certain faculties being removed, the others operated with greater vigor in response to the suggestions given. Just as in uncompensated muscle effects.

Another hypothesis that seems to have its supporters among persons of reputation for neurological ability, is based upon the idea of atavism, or ancestral influence, in the organization. According to this, physical peculiarities, tendency to certain diseases, peculiar characteristics of mind, and special habits derived from a remote parent, may crop out, after having

skipped over several generations. Dr. K. O. Mason puts it in this way: "Suppose, for instance, there appeared a man of marked and thoroughly bad characteristics, married to a right-minded, moral, even religious, woman; that he was a vilifier of morality and religion, profane and vicious in life, and unscrupulous in his dealings with others; that the generations which immediately succeeded him came under influences which, aided by inherited characteristics from the mother, led to lives of morality and uprightness, or even conspicuous piety. In the fifth generation, however, appeared a man who, in the midst of these moral and religious environments, was conspicuous for his profanity, vicious life and unscrupulous conduct, so identical with his remote ancestor as to make the connection undoubted."

What became of "the black drop" in the blood of the intervening generations is accounted for in this fashion by the same writer: "In the fourth generation was a mild, religiously inclined woman, but of unsound health, and perhaps of unstable personality. Some sudden shock, syncope or loss of consciousness occurs and, as in the case of Felix X, on recovery an entirely new and different personality is found to have taken the place of the original one. It professes to be a man, and to the horror and consternation of the good people surrounding her, she commences to curse, to vilify everything good, and uphold sentiments and practices of the most offensive and criminal character. This person has a chain of memories and a personal history entirely foreign and unknown to the primary self, but quite consistent with those of the remote ancestor whom we have considered. In an hour or a day the primary consciousness has returned, but there is not the slightest knowledge or recollection of the character which she has represented in her second personality, and very likely the case is diagnosed as temporary insanity; in a more primitive age it would have been called possession by an evil spirit. It was in reality the strongly impressed characteristics of a distinct personality which had lain dormant in the sub-conscious self for three generations, now coming to the surface temporarily under favoring circumstances in the fourth. In another generation it actually appeared, an atavism, as the primary and usual personality. In like manner a personality of conspicuous goodness or conspicuous talent might pass over many generations of mediocrity or of evil-doers, and appear, a pleasant atavism, after one or

many generations had intervened. Less extreme personalities might be formed in like manner, and more than one might be impressed upon individuals in successive generations, giving rise to the perplexing and much debated condition of multiplex personalities. Kraft-Ebing, as we have seen, found in his patient 'three psychical existences' or personalities. Professor Janet's patient, Madame B., possessed three widely differing ones; while one of my own cases presented three and another two, alternating spontaneously at longer or shorter intervals, not including the cases in which changes of personality were brought about by hypnotism."*

Accept the theory of atavism, of an hysterical crisis, and the case seems well made out. But on the physiological side may we not extend our reasoning farther and see in these differing expressions of character the modifying effects of a changed relation of the psychic centres of the brain?

In the case of Prof. Janet's patient, his differing personalities were the sequence of hypnotic suggestion, influencing a sensitive mental organism. These personalities were imitations or assumptions of characters known to the patient, and she, possessing doubtless a good degree of the power to mimic others, readily exhibited it. We speak of people as having different moods which merely express differential action of their mental faculties. We have only to intensify a mood to produce what may appear to be a personality of a kind that may contrast strongly with the character as known.

* Question of responsibility here opened by the jurisconsult, if we are to accept this theory of atavism to account for criminality.

THE BRUTALITY OF CAPITAL PUNISHMENT.

BY GUSTAV BOEHM, ESQ.

I have a dim recollection from the days of my childhood, that one day early in the morning, a howling, laughing, joking crowd of people passed our country residence in the suburbs of Vienna, on the way to the "Spider on the Cross"—a historical spot where for generations past, the miserable wretches condemned to death by a high Court of Vienna were executed in full view of the audience, generally a mob of several thousands of people of all stations, who had come from early dawn and many of them travelled many miles, to witness the interesting spectacle of strangulating a human being, (hands and feet tied, probably gagged,) by means of a two-armed old-fashioned gallows, a wheel, a ladder and a few yards of strong rope.

The noise of the passing crowd attracted us children to the window, from which we were peremtorily ordered to leave by our tutor, as soon as he learned the cause of the hilarious procession. Later, at other similar disturbances, I was told the object of these gatherings. People went to see and study every moment of the disgusting performance, and the scenes often witnessed at these unnatural spectacles were described as simply outrageous. Still—at that time—no one thought wrong of it. The pitiable wretch who through circumstances, perhaps entirely out of reach of human power to control, by disposition, a consequence of natural inheritance, or lack of education, a consequence of economic shortcoming, committed a deed which doomed him to leave his life at the "Spider on the Cross," had no right to expect anything else but frown, pain, shame and death under the most harassing and torturing preparations. At that time, hardly out of my childhood's shoes, I had come to the conclusion that among all beasts of

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nature, the human was the most cruel, the most vicious, the most despicable among all of God's creatures.

The methods of executing the death sentence have since changed in many countries; the manner is different, but the dreary act has remained. The hilarious crowd witnessing, watching and discussing every movement, every word, every cry of agony, every twitch of the muscles of the poor wretch, has made room to a few invited guests whose scientific investigations and dissertations in public papers and magazines take the place of the popular gatherings formerly in vogue.

The electrical chair has driven the gallows—at least in this State of our blessed land of progress—out of use; we do not hang our murderers any more "by the neck until they are dead," but we shock—a pity to say: at times roast them—until life is extinct. The method has changed, but the death sentence has remained, and queer to admit, with all the cruelty of former times, with all the brutality still adherent to the death penalty, with all the precautions of society for protection, yet murder has remained with us, and we dare say will always remain, as long as human beings with nerves and passions inhabit this globe.

The question arises, therefore, whether in placing society upon the level of the murderer, and killing the killers, we accomplish anything at all? Whether experience does not teach that this sacrifice of our own better self is too great to chance for an apparently unsuccessful attempt? Whether we ought to continue to kill legally while this degradation of our self to the level of the brute is eventually of no consequence for protection? Whether it is, under the circumstances, not our duty and in the spirit of progress to insist that such a law be abolished?

It is true, in the passing of time, the execution of this cruel act has been reduced to a nominal probability. We do not sentence thieves and pick-pockets to suffer death, we have no punishment for one hundred and more crimes as in former times, we even insist only in the most flagrant cases of murder on the practices of the biblical sentence: "An eye for an eye, a tooth for a tooth," but still, after experience taught us that capital punishment does not protect from murder, we must acknowledge the barbarity of its execution even in a single case, unworthy of society at the end of the Ninteenth century. It is a barbaric remnant of former times and, I dare say, the

hour is not far off, when man will hear with disgust and shudder of the brutality of capital punishment, as we now listen with retained breath and revolting feelings to tales of the cruelties of the torture, not so very long ago the rightful and legal means to obtain admissions from suspicious persons or punish sentenced criminals.

The object of every law is three-fold:

First: To prevent.

Second: To reform.

Third: To punish.

Among these three points the second is the highest purpose of a law. To make a better and more useful being of a miserable wretch, is certainly a divine object. It ought to be considered the main purpose of the sentence. It alone is worthy of the attention of the humanitarian.

The first point *"To punish,"* while it is strictly just, places legal sentence on the level of a pure act of revenge, hardly in accord with the "majesty of the law," which should not practice any of the baser properties of human nature, among which "revenge" is one of the foremost.

"To prevent" is one of the main objects of legal punishment. It is a protective measure and the individual is bound to be sacrificed to benefit the community.

Summing up, we find in the case of capital punishment:

First: The execution of the death penalty is an absolute and pure act of revenge. We kill *you* because you have killed.

Second: The execution of the death penalty excludes *a priori*, the highest purpose of the sentence: to reform. We can not reform the dead.

Third: Experience teaches that the execution of the death penalty has not accomplished the prevention of murders. The means to do so are apparently not within the reach of the laws' intentions. Therefore let us hope the humane and progressive spirit of our times will soon deliver us from this remnant of feudal barbarism.

The experiments with an introduction of death-machines in the State of New York to supercede the old methods of hanging or beheading; the invitation to scientists and the adaptation of scientific methods to assist in killing the miserable wretch condemned to suffer the death penalty, the exclusion of the public from the disgusting spectacle appear to be a giant stride forward in the direction, which will at last lead us to

recognize that capital punishment in any form or shape is no less than the most brutal murder, the most despicable, low act of revenge, the acme of cruelty, for no murderer will watch, nurse, keep from harm and feed his victim in so accomplished a manner as the state does, simply for the one and only object: to kill.

What revolting reading the practice of our death sentences will be to coming generations!

Let us close this chapter of legal brutality, the sooner, the better.

PSYCHOLOGICAL STUDIES OF CRIMINALS.

BY GEORGE W. GROVER, M. D., OF SHEFFIELD, MASS.

Some years ago I once heard Wendell Phillips say, as he alone could say, "When my Lord Bacon strides down through the centuries, it will be with one hand on the steam engine and the other on the electric telegraph, saying, these are mine for I brought to light the principles that enabled you to discover them." This, though a large claim, is perchance not unwarranted, for through him we have that magnificent scientific method, the parent of more things fruitful and beneficial than any other working theory ever given to man.

But this immortality in fame's temple has been acquired more speedily still than even by the great master of English thought. Some men walk through the ages with their "title resting on an aphorism: "know thyself." *Solon.* "To thine own self be true." *Shakespeare.* "Cogito, Ergo Sum." *Des Carte:*

Know thyself! well, if this injunction could be carried out so that its beneficent imperative could be obeyed to completeness, we should indeed be master of the universe and king of most of its secrets.

Wordsworth plucks the humble flower from its yet more humble home, and sings "Flower in the crannied wall, I pull you out of the cranny, but if I could know you all in all, little flower, I should know what God and Man is;" but one is a flower, the other a man, and by as much as the keen intellect of Asa Grey transcends the modest violet that he studies, by that same distance will the admonition of the Greek sage, soar above the soliloquy of the British poet.

As the first step along the line of inquiry that shall lead us to even a partial solution of the issue that seemed so desirable to the ancient sage, we come face to face with the old question which agitated the thoughts of the old Greek philosophers, and has been in the forefront of all psychological discussion from the days of Socrates to Herbert Spencer, which is this:

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Is the relation of the soul to the body, or if you prefer, of the mind to the brain, like that of harmony to the harp, or of rower to a boat, and had Plato been the possessor of modern instruments of investigation whether he would have reached conclusions more clear or accurate than our own is a question more easily asked than answered.

In philosophy, as well as in architecture, before erecting the superstructure, it is of immense importance that we have the foundation securely laid, and in building, or attempting to erect any structure of thought, the more firmly we can rest it on axiomatic truth, the more easily and speedily may we build.

Of harmony to a harp, or rower to a boat, in addressing a body of learned scientists, many of whom, to borrow an expression of Emerson, "Keep eloquence on tap," of men accustomed to tread with steady head the edge of the precipice, of the most momentous inquiries, I may assume that no time need be spent in explanation of the trend of any proposition, and hence I push on, at once, to the evidence for and against this old question. Were the relation of the soul to the body that of harmony to a harp, break the strings of the instrument and the harmony must cease. No matter how inspiring or uplifting, whether the pulsing glory of the 5th symphony, or the challenging suggestiveness of Tanhauser or Lohengrin, let the orchestra be shattered and the music is gone: but, let the sturdy oarsman feel his boat sinking beneath him and the same strength of arm that had pulled the boat up stream, shall enable him to breast the billow or gain the shore, and even build himself another boat.

Where then are we to look for the admitted truths that shall serve us as clues in deciding this vast question.

Do we keep well within the line of the provable, and certain as we reason thus—"Every change must have an adequate and efficient cause."

No stream rises higher than its fountain, involution must always equal evolution; you can never take out more than is put in; in the constant balancing of forces we term life, import must ever equal export or life begins to pause; behind every thought a thinker, beneath every act an actor; whatever acts living cell,what do we see; in a mass of protoplasm you have a in the cause Place beneath your highest power microscope the effect hence intelligence at least equal to the effect must reside

choice implies intelligence, intelligence isseen along the line of upon a plan implies adaptation, adaptation indicates choice, picture presenting a ludicrous resemblance to a lot of boys tied in a bag running a race; take your single cell and as far as you are armed with new vision by your scientific eye, you perceive what seems to be absolutely close resemblance. Yet some cells will weave a tendon, some a nerve fibre, some an oak tree, and you can never persuade the one that makes the oak, to weave the tendon, only the oak tree never does it make a mistake.

Place before you a series of photographs, some taken at three years of age, some at 10, 30, 60; they differ! Yes, but beneath the difference is always a resemblance. Something has been acting all these years on a plan. What is that something? Science gives its last answer when confronted with this interrogation, that which acts upon a plan must be antecedent to that which that something builds, and so when the stout hearted positivist, John Tyndall, stood upon the summit of the Matterhorn and wondered if the sadness with which he viewed the scarred, battered mountain chisseled by the storms, torn by the blasts of ages of tempests, was potential in the star mist out of which it sprang, sums up his thoughts, thus; "it is inconceivable that a mass of atoms can be particular about their own position," and "if I could not see an intelligence at the heart of things, I should be of all men most miserable." He attacks in that one conclusion the Malakoff and Redan of modern materialism.

Supposing we are correct in our positions thus far, if life is the cause of organization, not organization the cause of life, are we ready for the next step in our argument and in what direction does it lead us? We may be as yet only on the threshold of what may be ultimately known as regards the science of life. We may grant, if we must, that biology, psychology, sociology are far from exact or complete sciences. Still, there are some things respecting them of which we may avail ourselves as working hypotheses, even though our positive knowledge some finds its horizon, and when we ask what it is that we do know, or at any rate think we know, as to the laws that govern the methods of action of this mysterious something, that acts upon a plan, and whose plan, in its highest visible range of development, blossoms into a human personality, we find ourselves knocking at the door of that other

ages old discussion, of free will and automatism, and if we cannot settle it today any more than could Socrates or Aristotle centuries agone, we can at all events state the reasons for each and take our choice of that which best satisfies our sense of the probable. We can weigh what evidence we have got, even if we recognize that to-morrow some one may discover more.

I doubt if any thinking man ever lived his life through without having hours when he was oppressed, appalled, by an overpowering conviction, of the terrific potency of his own volition, this awful something within us which enables us to stand facing this mighty universe, looking this way and that, beholding its clash and roar of progress, or awed still more by its solemn, awesome silence, and then think, I, atom as I am, feeble, impotent, yet bearing that within me by means of which I can sway this way and that, and call into being trains of causes and influences, of whose triumph the morning stars shall sing as they roll, or over whose defeat the diapason of the billows shall ceaselessly chant.

Nor does he escape those hours when it seems as though all volitive effort went for naught, as though I were bound by forces I can neither escape nor modify. I think I am pushing myself when really I am the slave of the cumulative persuasions or impulsions that act around and upon me, though in my moments of vanity I thought I was doing it all myself.

The one position, the error of youth, the other, the mistake of age, the one, most likely to be felt touching the present and future, the other, as we strain our vision to reiognize the past, the one a position, that finds its strongest, if not its only argument in self consciousness. I can act as I will, I know it, I feel it, and know it because I feel it. The other far more strongly buttressed by reasoning and yet continually disputed by our deepest knowledge of self.

"I was not—I was, and tried to do a little work. I am not." Such was the mournful epitaph of Prof. Clifford, dying at 37. Such the conclusion of many a man and woman of to-day, but one, that, whether true or not, takes much of the brightness and sparkle out of life. Geo. Elliott felt it, compare Deronda with Adam Bede, Stuart Mill felt it, Thos. Huxley says he believes it. The German Haeckel accepts it. Shopenhaur, with sour face and sourer philosophy, says he is sure of it; John Tyndall broke away from it. Men may live on in spite of it, were it proven to be true, but the highest incen-

tives to virtue and heroism are gone. Altruism and nothing else is all very well as a theory to play with, but if there is nothing in me that is not the resultant of forces that have no eyes, nothing that I do but what is the outcome of motives that drop into the mind as weights into a grocer's balance, and the idea that I can change the consequence by what seems something imperial within myself if that is nothing but a figment permitted in some mysterious way to lodge within us, to pat our self-complacency as we stroke the fur on a cat's back, if that is all, why then a long farewell to some things in the past; for it is very certain that some portions of human history will never be repeated.

Well, I do not stand before this learned body to-night vain enough to suppose that I have any new wisdom on the subject, nor that I can even present to you thoughts that you have not thought before, still, I may modestly state to you my conviction though the result of my doing so, may be to send you home believing more firmly than you even did before, world-sated old Solomon's tired remark, "There is nothing new under the sun" and what there is that is old does not amount to much. A conclusion, by the by, that you note that people seldom reach till they are able to eat and drink more than is good for them, and have their coupe hang so softly that it is to all intents a cradle, then they are apt to sleepily murmur, all vanity, all vanity, and when I hear such I am always conscious of a desire to tumble them out into the road, and say, "Now walk, you pampered Sybarite, you may think there is lots of vexation of spirit, but he won't say much more about vanity.

You never yet knew a hustler to write ecclesiastes.

So let us take hold of this question and see if we can grapple with it.

No man, most likely, ever read Buckle, no matter how much he dissented from his conclusions, who did not feel the tremendous force of his argument. No man ever ploughed his way through Johathan Edwards, even though he considered his logic barbarous, who failed to realize with what skill that logic was hammered into such coherence that it is not easy to pick a hole in it—environment, heredity, the pressure of necessity, the "Stars in their courses fighting against Sisera," that strange change of conduct that sometimes takes a man by the throat, and seemingly compells him to upset the reputation

of a life time by the wild action of a few months or weeks, the observation of which brought probably into being the proverb, "Whom the gods would destoy they first make mad." The conception of all this side of life moving calm judicial Horatio Seymour to say, on looking at the convicts in Auburn prison, "There goes Horatio Seymour, but, as he stated it by the grace of God, all this on the one side; and on the other, your Jerry McAuley, flinging his filthy life away from him as you would throw into the gutter a rotten orange; your ash barrel Jimmie,a drunkard for a score of years, hurling his bottle instead of his head into the garbage, that so long served as a pillow, at the loving solicitation of the noble wife of Ballington Booth, God bless her; your sneak thief creeping up toward good old Moody, and your Magdalen, of the tenderloin, shedding, as the Evangelist tells his simple story, as pure tears as her prototype of old—here is a glimpse of the other side and philosophy reasoning from cause downward, science following from phenomena upward. Philosophy coming down stairs, science going up stairs, each often passing the other on its way, have been hunting for the limits, if limits there are, for the amount of moulding and shaping exerted by the one and the other in the building of that structure termed character; the one thing, or one of the few things in this equipment of ours that in its noblest phases is eagle-eyed, far-reaching, bearing in its bosom the imperial consciousness of a something, that shall look undazzled on the light that never shone on land or sea, and gaze in calm serenity on the far flashing crystal of the sea before the throne.

Now, Mr. President, ladies and gentlemen, after the sifting processes of two or three thousand years, may we ask as our final inquiry, that shall lead us directly to whatever practical conclusions it may be our fortune to reach, as result of our discussion to-night, where do we stand, after this long period of testing, trying, experimenting, in the attempt to "hold fast that which is good" in its bearing on human life and welfare?

Society had not become very complex, or the evolution of intelligence advanced far, before it was seen plainly as the sun at noon that some lines of conduct, some modes of action tended to advance, to bring rest and beneficence, some to misery and woe, hence human law, both that expressed in statute books and that even more imperative and controlling

code which rests on general consent of mankind, began to be grouped together and accepted as resting on sufficient ground to demand and compel obedience, changing ever as the torch of men's judgment burns more bright; but as to purpose, intent, remaining the same, to wit, to brush shadows out of men's pathway, to open more widely the dome of observation that more light might come in.

We will not stop to deal with the past, but take hold of the subject as it lies before us today, along what line is the effort now being made? Do you agree with me, as I state boldly, that all effort is now directed, from the kindergarten to the university, from infancy to age, one long continued effort for the best energizing of self, and all needed repression of self. Some springs of force within the control of the individual, if encouraged to action, tend to make the wilderness to blossom and the waste places to rejoice. Others if not repressed carry a curse and blight in their touch, and ruin everything on which they breathe; thus, by precept and example, by law and power, by poetry, music and art, by oratory and literature, by the influence of the home and the allurement of the world, by the splendid endowments that wait on success, by the dreary dread of failure, by all and every influence that can touch the mind, or move the heart of man, does society strive to the bettering of life's conditions, to the development of the individual man, and human progress is made by observations of what works well, and obedience to what is thus seen to spread laudable consequences; thus life becomes a vast bazaar of opportunity, where the keenest perceptions and the most flexible temperament wins, and he is best equipped who causes his environment without, and the potent something within, to act in harmony and become his stepping stone to achievement. What this equipment is, we have learned to discern reasonably well. A man may be as opposed to phrenology as was Sir William Hamilton; but as you look at a man's head, gaze into his eyes, hear him speak, you judge fairly well what motives dominate, and to what psychological key his temperament is pitched, and in this play of character on character, of force on force, the drama of life moves from prologue to conclusion. We know fairly well how to appeal, in what ways to influence, where the inspirations lie. We realize what is inviting, and what repelling, to the normal ordinary man, and if all men were normal and

ordinary, we should be ever growing more and more exact in our science and psychology of life; but all men are not normal and ordinary, they do not seem to respond to motives, and do not present seemingly the equipment of their fellow-men, they seem to stand outside the range of influence in which most men walk, we speak of them as criminals, build huge stone walls to shut them up, or sometimes call in the aid of the lightning to scorch them into nothingness. These strange types of abnormal man are found in all places, some cultured, some in all respect apparently like other men. Let me mention four typical cases for this subject of psychological study.

Go to Mt. Auburn to-day and you will find three grave stones, one lying prone on the ground, one word, "Webster," on its surface, another a few feet distance, Dr. Parkmann on that, one other a few steps farther on, Rufus Choate on that, here before you is one of life's saddest stories. The man here, one cold, gloomy November day killed the man there, and the man over yonder, said "admit the killing of Professor Webster and I will defend and clear you, deny it and you are doomed." Oliver Wendell Holmes was lecturing up stairs at the very moment that Webster down stairs seized a grape vine and struck Parkmann on the head, lost his self poise, added falsehood to homicide, refused to follow the great lawyers counsel, was "hung by the neck until he was dead," Professor Webster, the ablest chemist of New England, in a moment of irritation struck his former benefactor down, goes to his home and reads Milton on the evening of the deed, plays euchre the night preceding his arrest with Chief Justice Shaw, refuses to plead guilty, and dies for his stubbornness. How near was he to a normal man? A fair young girl in her loving tenderness gives herself in marriage to one who pretends to love her, her lover sends her some capsules for headache, she finds at last the fatal one, sinks into what she knew was to be a death sleep her lover comes in as she nears the border land and over and over asks the question, "do you think I can be held responsible for this?" No word of sorrow, no evidence of regret, but "do you think they can hold me for it?" Webster and Carlyle Harris were men of brain, men of culture, men who could see how effect follows cause, men who knew that the way of the transgressor is hard, did the same motives that lead normal men to avoid murder, seem different to them be-

cause of a different mental make up, or did they hurl restraining reasons out of their path by arguments very like what other men would use? Two murders were committed in my native state some eight years ago, Almy killed his sweetheart, Chrystie Warden. Isaac Sawtell murdered his brother—horrible crimes both. New Hampshire gives a huge exhibition in this line when she acts at all. Almy killed the girl, he said, because he first shot her accidentally, and could not bear to see her suffer. While detectives all over the land were finding a new Almy every day or two, the real one lay hidden in the hay of her father's barn, saw them bring her body to the house, saw the funeral, stole from his hiding place at night to steal food and scatter flowers on her grave, staid two months in this place by himself, was captured at last, at night, by going out for apples in the orchard. I spent part of the morning with him the day of his execution. "Did you ever dream of Chrystie, Almy, when you used to sleep at the barn?" "No, I don't know ever as I did?" "Did you sleep fairly well last night?" "Yes, slept all night long." "Did you have a good appetite this morning?" "Yes, but not so good as if I had been going to be married?" An hour before his execution I saw his hands grow blue. "Would you like a stimulant, Almy?" "No, I think not." "Shall I cause you, by giving you a sedative to feel less conscious of pain?" "No, I am all right I guess." "Well, what would you like?" "A cigar if you please." He smoked as cooly as though starting on a pleasure excursion, was the only man on the scaffold who was as calm as a summer's day, and died with seeming indifference. Sawtell I found holding the New Testament in one hand and Voltair's Philosophical Dictionary in the other, he had a cold, blue eye, a harsh yet strong face, he looked me full in the face, and said, "do you believe in a future existence? If you do I wish you would make it apparent to me, for I have never had justice in this world, and if that is true, I may get it in the next."

I have heard that men can lie with their eye, with their face and expression; but that the orbicularis oris muscle always gives the lie away; but this interview knocked that saying higher than Gilderoy's kite, for his mouth was as firm as granite. One of the Governor's Counsel said, "Isaac, what did you do with the head? Grand chance here for the obicularis oris to get in its work, but his start of surprise was perfect, his reply artistic, his case, did not end like Almy's. Chaplain Wilkins said

to him the day after our interview, "Isaac, if you will read one book which I will give you, I will never talk to you again about religious matters, unless you ask it." I gave him, says Chaplain Wilkins Butler's Analogy,and when the stern logic of that book,drove him to the admission of a cause in the universe, that is intelligent, Sawtell broke down in a fit of terror and died of apoplexy two nights later.

Well, Mr. President, ladies and gentlemen, having advanced thus far, are we now ready for one final concluding question? We have in our midst a class of human beings, who seem to be outside, beyond the usual normal range of motivity, we have a class who, owing to the switch of volition, and judgment not being normally guarded, are side tracked, and go plunging into dire disaster, which makes wrecks of themselves and carries woe to their fellowmen. Does the science of life bring to us any aid, place in our hands any light, leading to just and humane dealing with them on the part of society? To answer this query we must ask, are criminals normal beings or not? Are they like others, only with some facilities more largely or less fully developed? Or are they a class in whose make-up something has been added or omitted that is a part of the life equipment of the normal man?

Here we must make a distinction between the criminal and the man who sometimes does a criminal act.

Here is a man who from a stress of circumstances has become financially embarrassed; he is cashier of a bank, money is at his disposal; he has a lovely family; a pleasant home; a few hundred dollars will tide him over a tight place; he can easily replace it; he takes it; is detected. You have not, I think, to go outside the range of the ordinary action of motive to explain an act like this.

In the State Prison at Charlestown, Mass., is Jessie Pomeroy, the boy with the white eye. A man in the thirties now, whose pleasant amusement it was to lure children into the woods and cut them up before he was 10 years of age; he had a fine repertoire of this sort.Here surely is a field for study. What goes on in that strange, weird life?

My friend, Dr. Fowler, who honors us with his presence tonight, kindly placed in my hands a learned work written by the German Benedikt, translated by himself, in which anatomical science shows us that the brains of criminals are

unlike in kind the brain of the normal man; thus has science spoken its first but not last word. And granting this difference, what is the duty of humanity to these, its stunted members of the human family?

I enumerate my reply for the sake of clearness.

1. Let the distinction be carefully made by all the means science places at our disposal, and they are many and increasing every day. Is this a crime due to an inrush of temptation into the chambers of a mind of normal type, repented of perhaps as soon as committed, most likely never to occur again; or is it the beginning of a series of acts, the offspring of malformation which will cease only with life itself?

2. If the latter; it is the duty of society to protect itself by segregation, even though the culprit be of tender years, or even—note this please—even though no overt act has been performed at all.

I know it sounds heartless; I am aware that it may be deemed cruel. I used to pity our missionaries in distant lands when they sent their children to America to be educated, involving a parting of years; they did it for the sake of their children's future; we should do this at once; change the entire trend of environment, oppose to opportunity and heredity the mighty power of habit.

3. By means, I stop not to consider what—time does not permit—the possibility of criminal family perpetuation should be rendered an absolute impossibility.

I knew a young girl, years ago, beautiful, cultured, an ideal Christian woman; her mother committed suicide; she was to be married to one who loved her, as she loved him, better than life; poor girl, she thought the fearful scourge might not jump to the second generation; one day her married brother attempted to cut his throat; she instantly cancelled her engagement, and will walk to her grave with ache in each pulsing heart beat. I had a chum at school many years since; he was class poet at Harvard college; came to this city to practice law; his mother, one of the most brilliant women that lived in my native state, was forty years in the asylum for insane; this young man was to marry the daughter of one of the Faculty of his college; his father pleaded with her father not to permit it; but, oh, God pity him and his, pleaded in vain; the mother died, three children were born, and then the son took the mother's place, and will stay there until he too

passes on. All honor to the man or woman, who says when conscious of their fearful inheritance, my terrible life potencies of evil, innocent enough I am for their existence, shall lie by my side in the silence of the grave. No skeleton hand shall ever reach forth from my coffin, to seize with clutching finger the blossom of some younger life tree and scatter them into dust, and, where this heritage of misery exists, if the party has not courage to say it for himself, society should say it for him.

I intended to have said something as to specific treatment, but my time is gone; we are only on the borders of the knowledge of psychic relief to lives of this type; but it seems to me that if it is applicable to any class of men it is to these! By the influence of suggestion, you to a great degree control the faculty of hope, and no one is ever constantly bad, or absolutely dispairing so long as hope gladdens his vision, as morning and evening stars. Enlarge then the borders of hope in human lives and it may be, it may be, and blessed is he who discovers the truth, that in thus sweeping the shadows from clouded lives, the light is seen whose beams gild the firmament and reflect God's golden leash of love.

THE RIGHT TO COMMIT SUICIDE.

BY GUSTAV BOEHM, ESQ.

If it is insanity to concentrate one's thoughts in such a degree upon *one* subect in life to make all other of life's interests equal to naught, and this subject being accidentaliy the momentary troubles of life, making it apparently not worth living, then I agree with the general verdict of public and legal opinion, that the committing of suicide is the act of a lunatic. But,considering this opinion close, one must admit, what holds good in one case must hold good in another, and that this same theory may be applied to other spheres than the suicidal. The business man, to quote a practical example, whose thoughts are entirely concentrated on the transaction of business, neglecting thereby his health, his family, everything outside of the one and only object in view, is, according to this method, nothing else but a lunatic. The artist, the literateur, the scientist, the actor, every one who is totally devoted to his profession and aim, as he ought to be to obtain satisfactory results, is according to this theory no more or less than a lunatic.

Now ladies and gentlemen, do you agree with me?

Hardly. Suicide is frequently a consequence of a species of insanity, particularly melancholia, but it is not necessarily a positive proof of a diseased mind. It is, therefore, unjust in many cases to declare the suicide a lunatic, and, while it may greatly benefit the relatives of the unfortunate as far as provisions through life insurance policies are concerned, to insist on this view and bless the law for it, it is certainly not proper for the thinker to admit it.

"Temporary insanity" is a cheap verdict out of the dilemma. As long as it is generally beneficial to those most needy of assistance, we may well allow it to stand good. The "insanity plea" is a convenient bridge over legal complications and inconvenient consequences. Yet that is all.

Read before the Medico-Legal Congress September, 1895.
Read before the Medico-Legal Society, June 15, 1898

You have heard of suicides—and frequently so—who have settled up with their surroundings in a business-like manner, giving orders what shall be done with them and their property, after the deed, in as rational a manner as any sane person only could do, and even in a manner superceding ordinary rationality; yet the verdict was: "insane." They had closed their accounts with life in as methodical a manner as any expert accountant would close a ledger and yet they have been proclaimed insane. This is an insult to the mental capacity of the unfortunates which they would promptly resent,were they alive and able. A person who has the conviction that life has nothing to offer worth living for, and methodically arranges his affairs to avoid any misunderstanding after death, then cooly sums up by cutting his throat, ought not to be declared a fool. It is rather an act of philosophic quality, the result of deep thinking and ripe judgment than the doings of an imbecile.

To claim him a criminal, as the present Penal Code of New York does, is rather unfair.

The law is no more capable to reduce suicidal acts, than the barbarity of capital punishment will prevent murder.

It is the wrong method to "scare" man away from the paths of suicide, by threatening to punish him—if he does not succeed.

Mind well: if he does not succeed. This is a law against sham-suicide; the real earnest actor in the tragedy will take good care to evade the law and administer the necessary dose to make sure of the results. Have our legislators actually thought, the unfortunate whom circumstances compel to quit for ever, who finds no attractions in life to make it worth living,would consider only for a moment that his act is a felony and punishable by imprisonment or a fine or both, and thus abstain from committing it? Hardly.

This law is made for attempted suicide, as I mentioned, for such who unfortunately do not succeed in their endeavor, or such who did not care to succeed, viz: hypocrites. In both cases it does not strike the person for whom it is intended. The dead can not be reached by the law, and it is really the dead for whom it was passed. The small portion of unsuccessful unfortunates who actually meant business is a minimum number of the class coming under its attentions. They are twice to be pitied rather than punished.

It is the accepted view that a member of organized society,

of the state, has obligations toward this organization which compel the individual to bear his lot without a murmur, and continue in misery until natural causes relieve him or her therefrom.

May be this is morality, it is certainly not common sense.

I do not pretend that every one in temporary troubles should commit suicide and thus deliver his ownself from threatening inconveniences. But I do insist that there are cases in which suicide is the best and only way to solve the question of individual misery, especially if no one but the suicides own self will gain or lose by the act, or more so, if his nearest and dearest will materially gain by it. I know of one case, an oil broker, whose financial ruin was staring him in the face, who had a marriageable daughter and a son hardly at the close of his college term, who, by his financial and social ruin would have been thrown on the mercy of the world, with possibly no chance to a bright future.

There were two ways open to this man:

Go into bankruptcy, ruin the bright out-look of his children, and most likely, at his age, become a burden to them for the rest of his days, or commit suicide, and with the sum realized have his affairs settled and leave the necessary pecuniary means to his children, thus clearing the way for them and their future. I may add that in this case the man in question selected the latter method and with the $8,000 left to his daughter and his son, two lives at least were spared from otherwise unavoidable misery and penury.

Has this man committed a felony in the moral sense of the term? Hardly! No more than the mother who steals a loaf of bread to keep her starving children alive.

This case is simply an example that there are cases in which the *"Right to commit suicide"* ought not to be withheld from the sufferer by any law of God or man.

Furthermore, is it just, while we have no word of approval or denial in the very serious question of being placed into this world, we should also be denied the right to leave it ad libitum?

I cannot agree to believe any legal restraint the successful means to prevent or even reduce suicidal acts.

THE "X" RAYS AND THEIR SAFE APPLICATION. DESTRUCTION OF "X" RAY AND OTHER INFECTIONS BY ELECTRO STERILIZATION.

BY J. MOUNT BLEYER, M. D., F. R. A. M. S., LL. D., OF NEW YORK CITY.

Discoveries of the properties of the "X" rays go on apace and the scientific world is watching with the closest interest the experiments that are being made from their different aspects, to determine the effect of these rays upon the human body. Since their discovery and their application in medico-surgical work, reports soon started and spread throughout the profession and lay public of a grave danger accompanying the use of these "X" rays, owing to the fact that they produced so-called virulent burns by exposure to them.

Records now hold amongst their files many cases—differing in degree, and some have proven fatal from a lingering exposure to them. Even records tell us of a recent murder trial in this state in which the chief question arose—whether the physician who made this "X" ray exposure upon a patient, was guilty of an act of negligence from which death followed.

Let me say at the outset of my remarks, from what I gathered from my experiental work, that all your timidity in their future application can be allayed. I concluded that if the "X" rays are applied under certain precautions, and the proper apparatus used, no such conditions can be possible. I speak now from the actual employment of these rays daily to the chest wall, for the aid in gaining early diagnostic signs of tubercular and other allied diseases, if present.

This investigation gives me the right of an opinion, and I freely make it before you, showing how we all have fallen

Read before the Psychological Section Medico-Legal Society, May 26, 1898.

NOTE.—The static machine used by me and for all my work was made by Waite & Bartlett, also special machinery.

into that fallacious position by calling this phenomena as produced by these "X" rays, burns, when they are nothing less nor more, than an inoculation. Now that we know how to remedy the dangers connected with their use, and how best to avoid repetitions from recurring, and if they occur, whether the physician or who so applies them, is to take the blame if the proper precautions, as in any surgical operation, are not observed. Of all these facts I shall refer to in a few moments.

Let me dissipate those minds that an "X" ray application or the use of its photography is a dangerous procedure, either on a long or short exposure. If this force is applied and handled by skilled hands and suitable mechanism, there is absolutely no atom of fear in producing this phenomena of inoculation, known fallaciously as "X" ray burns.

This inoculation is due, according to my observation from a series of experiments, to several physical effects produced by the generation of these rays and the general conditions present. It is a known fact, that the use of the Rhumkoff coil, in connection with the generation of these rays, is an apparatus which gives an exceedingly high electro motive force and amperage, and therefore such high discharges when exhibited produce certain physical conditions surrounding the atmosphere of the patient or person who is exposed to these "X" rays. To sum up these physical facts, we find that this high discharge is leveled against the subject, carrying with it from the surrounding septic atmosphere, certain particles floating therein, also surcharged with bacteria and foreign material upon the clothing and skin which are at all times present, setting up sometimes an infection and at other times an inflammatory condition from these forced driven materials under the skin exposed to this phenomena.

This inflammatory or inoculated condition is the result of all these facts which I came upon from my crucial experiments, and can be avoided without any difficulty now on the part of the operator, by the adoption of a few rules gleaned from my experience, which I shall give in the summing up of my remarks.

I bring before your notice a few most important facts, which are also corroborative directly within my own investigation. Those facts cannot help being appreciated, as they come also from several late observers who studied the question of burns,

due to fire and hot water, &c., and the causes of death therefrom.

We already know that many deaths are due to burns produced from other causes than by the "X" rays. This fact has puzzled scientists to account for deaths which occurred among persons suffering from burns, even where the injuries received seemed wholly inadequate to produce fatal results. The havoc caused by skin diseases might be much greater, and a far larger surface of the skin attacked, but generally a cure could be effected, whereas, in the majority of cases of severe burns the end would be fatal.

Persons who have escaped with their lives from a fire whether very severely burned or otherwise, suffer intense pain, which is followed by a peculiar torpor and drowsiness, and not infrequently by delirium and convulsions. The pulse becomes weak, the breathing irregular, the temperature lower and there almost always follows vomiting and other symptoms of poisoning, terminating within twenty-four to twenty-eight hours in death.

Although these symptoms have received the attention of a number of scientists, their views of the actual cause of death were widely diverse. The first guesses, though ingenious, were very far from the truth. A German, F. Falk, arrived at the conclusion that persons suffering from burns died of cold, caused by the abnormal amount of heat given off through the burned portions. Prof. Ponfite, on the other hand, believed the cause to be the destruction, by the heat, of a great number of blood corpuscles, inducing a disturbance of the circulation. Addakoff, a Russian physician, stated as his view, gained from clinical observations, that the results of burns upon the system bore a resemblance to the effects produced by certain poisons, particularly those generated in the body by the failure to throw off secretions. Lustgarten and Kijanitsin come still nearer to the truth. The former comparing the results to burning with that of ptomain poisoning, and the latter declaring that under some influence or other, probably that of a ferment or of bacteria, a poisonous matter developed in the blood of burnt persons. He actually found in the blood of such persons a poison (ptomain) that is not present in normal bodies. It is a formless, yellowish or brownish yellow matter, with a sharp, disagreeable odor and injected into dogs or rabbits produces all the symptoms caused by burning.

The belief of Lustgarten that bacteria causing impurities, which settled in the wounds,were the generators of the poison, was shown by the experiments of Ajello and Parascandolo to be unfounded. Both these were able to take from any part of the body of a burnt animal, a poison, the injection of 10 grammes of which into a dog, weighing twenty pounds, produced instant death. The strongest poison was obtained from the burned flesh, a lesser was in burned entrails and the weakest of all came from the blood.

From this may be deducted,with certainty, that the ptomain is not solely in the blood but in the whole of the burned portions, and is thence carried into the system. Burned persons poison themselves so to speak.

The poison may be regarded as the product under the influence of high temperature of the albumen, and the direct impregnation of bacterial poisons from without, &c. It has been found possible, however, to prevent the poison from spreading by removing the burned portions before the ptomain had entered the circulation. It is also known from Ajello's and Parascandolo's experiments with animals that all recovered, without having suffered from the symptoms incidental to burns, when the amputation of the burned parts occurred immediately after the burns were received, where the amputation was delayed for twenty-four hours they all succumbed, except in instances where large quantities of blood were removed by bleeding; the blood drawn off being replaced, however, by a transfusion of pure blood. By the bleeding a large quantity of the poison was removed, the blood artificially supplied so strengthened the animals that there was facilitated a further separation of the poison from the blood by means of the kidneys.

I lay much stress upon this important point due to these "X" ray phenomena. That the "X" burn always appears many days after the application of this force or light to a part of the body,and does not show absolutely any early manifestation,—as minutes or hours thereafter, but days elapse even as late as 18 days thereafter. The "X" ray burn begins with a painful dermatitis slowly, and symptoms resembling burns from heat or scales. It is therefore that from the very outset and conditions that the difference is apparent.

How should we avoid this dangerous condition in the application of the "X" ray?

To sum up in a few clauses the whole matter, let me say in a few words the following, viz.:—

Above all supplant the static machine for the Rhumkoff coil. This form of electricity has not the physical properties of carrying foreign material into the depths of the tissue so readily as the other current. Static electricity gives only the high voltage with low amperage, while the other is productive of both high forces, making it an unnecessary dangerous appliance.

All parts to be either photographed or examined by means of these "X" rays should have all clothing removed therefrom, and washed with an antiseptic solution, or so prepared as if a surgical operation is to be performed. Also, a room which is free from infectious materials as possible, should always be made ready, or especially appointed for the purpose. Those are the cardinal rules and must not be deviated therefrom in order to avoid a dangerous inoculaton or poisoning. A screen of aluminum is a good adjunct also, and should be employed whenever convenient.

SPECIFIC TREATMENT FOR SUCH.—CONDITIONS.

Should such a condition arise, from unforeseen causes or otherwise, sterilization of the affected part by means of electrolysis is the safest and quickest specific known to me—with the amputation of loose tissue surrounding the parts. I found in my early work, as far back as May, 1896, when I had been as unfortunate as others to inflict several patients with these burns, that something more was present to deal with than an ordinary electro dermatitis. Experimental study of this question soon elicited facts that brought me to the discovery of the following remedial agent, which I recommend to your notice. Electrolysis or sterilization of the parts is a specific.

What do we understand by Electrolysis?

Electrolysis is the act of breaking up of chemical compounds, organic as well as inorganic, into their constituent elements by the agency of electricity, the process being accompanied by the loss of heat, and, usually, by change in the volume of the substance submitted to experiment. The conditions requisite for the performance of electrolysis are: (1) A fluid or semi-fluid conductor; (2) Conveniently placed electrodes; (3) A continuous or galvanic current of sufficient electro. Motive force or strength of electricity to overcome the resistance interposed between the electrodes. As the result of the passage of a continuous current, through a suit-

able conductor, decomposition is the result. The current decomposes all the infected material and changes them into some other non-poisonous compound, thereby relieving the system of poisonous products. This is accomplished by placing such parts of the body into a salty solution of distilled water, and connecting the electrode with the negative pole of a galvanic battery with a mil-ampere meter. The positive pole may be placed on any convenient part of the subject—vessels of porcelain, wood or glass are best. The strength of this current should average 5 mil-ampere to a square inch of surface to be sterilized, lasting at least ½ hour, after that time the polarity should be reversed for 5 minutes, in order to set free the chlorine which will again react on all the external and internal exposed surface. Accurate measuring by means of a mil-ampere meter with the use of such current must be strictly adhered to, as serious conditions will arise unless one knows the exact amount of current passing, and so as to judge the exact quantity of chemical action, thereby controling its destructive effects. Which if are not known will do serious injury to healthy surrounding tissues.

I know of no more satisfactory and scientific methods in the treatment of these "X" rays wounds, and, in fact, all deep and superficial wounds, than the sterilization by electricity as advocated in my method as stated. All wounds with pus should first be drained by incision before the above procedure is undertaken.I must state in my recommending sterilization by electrolysis to those that will hereafter apply it that they should at least be acquainted with the fundamental principles involving electro chemistry. Good judgment is necessary,as much damage can be done if improper precautions are not observed.The time of application must be always left to the discretion of the operator, especially in deep seated conditions. Reapplications can be always resorted to. There are no contra indications for this treatment by electrical sterilization to any class of infected wounds and skin diseases presented to surgery. After such treatment, protective dressing of simple kind are necessary to keep the parts from further external infections.

I bring my new and novel investigation before your notice for the first time in the history of antisepsis, and hope that it will find its way into general surgery with as much, and better satisfaction than the heretofore methods employed, and give as good account of itself as it has in my hands.

This work has been the outcome of my early results obtained in the treatment of tuberculosis and other inflamatory diseases of the lungs, &c., which still occupies my time, already with most fruitful results.

My investigations brought me to a most important point, and that is, that all microscopic crevices are cleaned of bacilli and pus cells, where, with the use of antiseptic solutions, &c., a mere coating is effected thereby, and always liable to a reinfection. This form of sterilization does not absolutely admit of such a condition as destruction takes place instantaneously by chemical decomposition, also by reversing of the polarity of this current, these microscopical crevices are again closed completely by its electro dynamic action.

Electro sterilization must be highly recommended as a prime antidote to all kinds of stings, dog bites, or in fact by venomous wounds produced by serpents. The current should be applied a much longer time than for ordinary cases. When a person has either been bitten by a poisonous snake, or by a dog, or received a dangerous dissecting wound, our first efforts to influence the result may take three directions: (1) To prevent the absorption of the poison; (2) To counteract or lessen its effect on the organism; (3) To hasten its elimination. (Martin). With the first object a ligature should be tightly applied to the seat above the situation of bite or wound. Then electro sterilization prevents absorption of any poison by electro decomposition. Ligaturing delays the absorption of a poison, as venom from a snake, etc., until electrolysis is accomplished. Electrolysis should be performed at the earliest possible moment.

MEDICO-LEGAL SURGERY.

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Surgeon A. L. Hale, of Fairhaven, N. Y., has united with this Section since last announcement.

SECTION OF MEDICO-LEGAL SURGERY, MEDICO-LEGAL SOCIETY.

MILITARY SURGERY.

The President of the United States has made the following appointments in the Surgical Service of the Volunteer Army of the United States in the field on June 4th, 1898:—

For appointment in the volunteer army, to be chief surgeons of division, with rank of major—Captain William H. Arthur, assistant surgeon; Captain George E. Bushnell, assistant surgeon; Donald MacLean, of Michigan; George R. Fowler, of New York.

Captains and assistant surgeons to be brigade surgeons, with the rank of major—William C. Gorgas, Henry P. Birmingham, Marlborough C. Wyeth, Richard W. Johnson, Edward C. Carter, William O. Owen, Peter G. Regan, William J. Wakeman, William Stephenson, Adrian S. Polheum, John L. Phillips, William C. Borden, Edgar A. Meams, Guy L. Edie, William D. Crosby, William L. Kneedler, Charles M. Gandy, James E. Pilcher, Charles B. Ewing, Walter D. McCaw, Jefferson R. Kean, Henry I. Raymond, Francis J. Ives, William P. Kendall, Edward R. Morris, Henry S. Harris, William B. Bannister, Paul Clendennin, Charles E. Woodruff, Eugene L. Swift, Paul S. Hillock, Ogden Rafferty, Charles F. Mason, James D. Glennan, Alfred E. Bradley and Philip G. Wales.

To be brigade surgeons with the rank of major—Willis G. MacDonald, Charles M. Drake, of Georgia; Joseph K. Weaver, John Guiteras, of Pennsylvania; Charles E. Ruth, of Iowa; John W. Bayne, of District of Columbia; Milo B. Ward, of Missouri; Schuyler C. Graves, of Michigan; George T. Vaughan, of Marine Hospital Service; Nathan S. Jarvis, of New York; William Devine, of Massachusetts; John C. Martin, of Ohio; Peter D. Naughton, of Michigan; Samuel T. Armstrong, acting assistant surgeon; John Patterson Dodge, of Ohio; John R. McDill, of Wisconsin; Samuel O. L. Potter, of Cali-

fornia; George A. Smith, of Iowa; Arthur Snowden, of Virginia; R. Stansbury Sutton, of Pennsylvania; Frank Bruso, of New York.

NAVAL SURGERY.

The following changes have been made in the Navy:

Naval orders were issued June 4, 1898, Assistant Surgeon D. F. Shugruee, appointed June 2; Assistant Surgeon A. E. O'Dell, appointed June 2; Passed Assistant Surgeon J. C. McEvitt, detached Long Island Hospital, ordered to the Monterey; Assistant Surgeon J. C. Thompson, detached from the Monterey and ordered to the Brutus; Passed Assistant Surgeon J. D. Moore, detached from the Brutus to the Naval Hospital, Mare Island. Passed Assistant Surgeon J. H. Moore, detached from Naval Hospital, Mare Island, ordered to the Monadnock; Assistant Surgeon E. T. Huntington, appointed May 24, assigned to Bellevue Hospital, New York.

FLORIDA STATE ASSOCIATION OF RAILWAY SURGEONS.

Florida State Association of Railway Surgeons at its annual meeting elected the following officers for ensuing year: President, Surgeon R. P. Izlar, of the Plant Ry. System; first vice president, Dr. R. F. Walker, Cedar Keys, Florida Central and Peninsula R. R.; second vice president, Dr. T. S. Anderson, of Carabelle, Fla.; secretary-treasurer, Dr. W. L. Hughlett, of Cocoa, Fla.; executive committee, Dr. S. G. Worley, of St. Augustine; Dr. W. H. Cyrus, of Patalka; and Dr. F. H. Caldbers. Dr. J. Harrison Hodges, of Gainesville, was the retiring well, of Waycross, Ga. · This association numbers forty mempresident.

PERSONAL

Surgeon C. M. Daniels, chief surgeon Erie Railway, has been named chief of surgical staff, Buffalo Hospital of the Sisters of Charity.

The St. Louis College of Physicians and Surgeons have made a chair of railroad surgery. Dr. W. W. Essick, of Murphysboro, Ill., has been elected Professor in that chair.

Surgeon B. T. Lashells, of Meadville, Pa., has been appointed chief surgeon of the Pittsburg, Bessemer & Lake Erie R. R.

Chief Surgeon Howard J. Williams, of Macon, Ga., of the Macon, Dublin & Savannah R. R., was recently elected President of the Georgia State Medical Association.

Prof. R. Harry Reed, M. D., late editor of Columbus Med. Journal, who has recently removed to Rock Springs, Wyoming, has been appointed surgeon general by the Governor of that State. This is an excellent appointment. Dr. Reed is now one of the surgeons of the Union Pacific Railway, and physician in charge of its hospital.

Surgeon General N. Senn, of Illinois, writes me that he has gone to the front with the Regiments of the State of Illinois. He is one of the foremost military surgeons of the United States.

Surgeon Webb J. Kelly, of Galion, Ohio, has been elected Prof. of Surgery in the Ohio Medical University of Columbus, Ohio. We congratulate both the College and Prof. Kelly on this announcement.

The Editor of this Journal has been honored with the degree of LL. D., by the faculty of Rutherford College, N. C.

The death of Dr. I. N. Quinby will be universally deplored, and leaves a vacancy in the Board of Trustees of the Medico-Legal Society.

The Law Department of Georgetown University, have invited us to their 27th annual commencement on the 6th of June, 1898, and present an elaborate and attractive programme. I am glad to see the name of Walker J. B. Fuller, M. D., of the City of New York, among those who receive the degree of Bachelor of Laws.

SOME MEDICO-LEGAL QUESTIONS IN PERSONAL INJURY CASES.

BY CLARENCE A. LIGHTNER, ESQ., OF THE DETROIT BAR,
LECTURER ON MEDICAL JURISPRUDENCE IN THE DETROIT COLLEGE OF MEDICINE.

I need not dwell upon the importance to the medical profession of personal injury litigation. It has recently been stated that one-half of the actions at law tried in the Courts of New York State are of this character. *Very few of these cases are tried without the aid of medical testimony. I propose to confine what I have to say to an important phase of this subject, which has received but little consideration from medical men.

The law does not give a right of action for every injury which may result from another's negligence. Negligence, to be the foundation for an action at law, must be the proximate cause of the injury. The maxim of the law is; "Causa proxima, sed non remota, spectatur" ("The proximate, but not the remote, cause is looked at"). The principle expressed in this phrase is well understood; the application of it to the varying facts in litigation is most uncertain. There is, I believe, no legal proposition concerning which our courts differ so much as they do upon this one of proximate cause.

In personal injury cases, this question is generally one involving medical knowledge, and it is, I am convinced, chiefly to the medical profession, that we must look for aid in bringing to us both harmony and certainty in the law regarding this matter.

I wish to call your attention to the legal rules which have thus far been evolved, bearing upon the question

Read before the Medico-Legal Society, April 20, 1898.
*11 Hamilton & Godkin's "Legal medicine," p. 377.

of proximate cause and to interest you in the medico-legal phases, by referring to a few of the cases which best illustrate these rules. It must be understood that I am dealing only with personal injury cases in which defendant's negligence and plaintiff's freedom from negligence are proven.

The scope and meaning of our maxim are well explained by the Supreme Court of the U. S. as follows:—"What is the proximate cause of an injury is not, ordinarily, a question of science or of legal knowledge. It is to be determined as a fact, in view of the circumstances of fact attending it."

"The primary cause may be the proximate cause of a disaster, though it may operate through successive instruments, as an article at the end of a chain may be moved by a force applied to the other end, that force being the proximate cause of the movement.

"The question always is, was there an unbroken connection between the wrongful act and the injury—a continuous operation? Did the facts constitute a continuous succession of events, so linked together as to make a natural whole, or was there some new and independent cause intervening between the wrong and the injury?.*

The importance of this question is apparent in actions brought for causing death. This remedy depends upon statutes which have been enacted in most of our States, and the action is brought by the next of kin of the deceased person or by his administrator, for the benefit of the next of kin. Of course, the action fails, unless the wrongful act of the defendant proximately caused the death. The application of the rule we are considering is frequently difficult in these cases and the decisions do not seem to be wholly in harmony. The U. S. Supreme Court has held that death was not the proximate result of an injury received in a railway accident. In that case, the deceased received injuries which affected his brain

*Milwaukee R. R. vs. Kellogg, 94 U. S. p. 474. See also, 19 Am & Eng. Ency., Law p. 302.

and spine, inducing him, some eight months later, to commit suicide.*

On the other hand, in a Penna. case, a shock due to the sudden starting of a street car, caused premature child birth; tetantus ensued, and death followed. These facts being explained by medical testimony, the jury was permitted to find that death was caused, proximately, by the starting of the car.†

It does not seem to be necessary that death should result within any definite time and the common law rule in homicide cases fixing a year and a day as the extreme limit, does not prevail in these cases. The injury seems to be far removed from the death in a New York case, where the knee cap of deceased was injured by his falling over a wire left by defendant across the street. An abscess formed; blood poisoning set in; gastritis ensued, and death occurred sixteen months after the fall. Defendant's negligence in leaving the wire across the street was decided to be the proximate cause of death.‡

It is frequently claimed, on behalf of a defendant, that death resulted from unskillful treatment given deceased after the injury and that, therefore, since death would not have resulted with proper care, the proximate cause of death, was not defendant's negligence but, rather, the negligent treatment. This contention has uniformly been rejected. The law says that, if one who is injured by the negligence of another seeks, in good faith, medical aid, the one causing the original injury is liable for all the damage which may result.§

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*Scheffer vs. R. R. Co., 105 U. S. 249.

†Brasheer vs. Philadelphia Traction Co., 36 Atl. Rep. 914. (March 1897.)
See the following for similar cases:— Grima vs. Second Ave. R Co., 8 Hun. (N. Y.) 494; Louisv. & N. R. Co., vs. Jones 83 Ala. 376; Hurly vs. N. Y. & B. Ry. Co., 43 N. Y. Sup'l Rep. 259. (Jan. 1897.)
Also, the following cases, in which death did not ensue:—Bishop vs. St. Paul City Ry., 48 Minn. 26; Oliver vs. Lavalle, 36 Wis. 592.

‡Purcell vs. Laurer, 43 N. Y. Sup'l Rep. 988 (February 1897,); in this opinion, the earlier cases on proximate cause of death are discussed and the Scheffer case distinguished.

§16 Am. & Eng. Ency. Law p. 441.

In New York State, recently, a passerby was injured, due to the neglect of the City of Troy to erect a barrier between the street and an excavation. Death resulted from a mistake of the physician who was called to attend her. It was held by the Court, that, if deceased in good faith and with reasonable dilgence employed a physician to attend her, the City was liable for the death, though it would not have resulted with proper treatment.*

However, if death is caused by reason of the neglect of the injured person to care for himself, the act causing the original injury is not the proximate cause of death.

Yet, the law does not require unusual care on the part of an injured person and, if the deceased took reasonable precautions for his health, the fact that he did not adopt the best remedies or that he did not follow explicitly his physician's directions, would not relieve the defendant of liability for resulting death.†

In a New York case, the injured man refused to allow amputation of his leg, though so advised by his physician. The physician testified that amputation "would have improved his chances." The jury were instructed that, if deceased was not negligent in rejecting the physician's advice, the negligence of defendant was the proximate cause of death.‡

In cases where death does not ensue, several other medico-legal questions arise, which bear upon the measure of damages to which plaintiff is entitled.

In the first place, we must remember that, in negligence cases, the law provides only for compensatory damages to the injured person. Such damages may include any or all of the following elements; (1) plaintiff's necessary expenses; (2) his loss of time; (3) his diminished earning power; (4) his physical suffering; and (5) his mental suffering; so

*Caven vs. City of Troy, 44 N. Y. Sup'l Rep. 244. (March 1897.)
See, also, upon this proposition;—Nagel vs. Mo. Pac. Ry. Co., 75 Mo. 633. Santer vs. N. Y. C. & H R R., 66 N. Y. 50; Thompson vs. L. & N. R. Co., 91 Ala. 496; Stover vs. Bluehill, 51 Me. 442.

†Texas R. R. vs. Orr, 46 Ark. 182.

‡Sullivan vs. R. R. Co., 112 N. Y. 648.

far as defendant's negligence has been the proximate cause of his damage in these particulars. There is no place, in such cases, for any award as damages beyond this.*

Now, it frequently happens that an injury, which if received by one in good health would be trival, by occuring to one having a tendency to disease or being in a weak physical condition, becomes quite serious in its results. In such a case, is the proximate cause of plaintiff's serious illness, the negligence of defendant, or is it, rather, plaintiff's own feeble or unhealthy condition? Many cases show that, under such circumstances, defendant is liable for all of the damage resulting to the plaintiff.†

In a Wisconsin case, a scrofulous boy fell upon a defective sidewalk and received an injury to his arm which resulted seriously. The defendant City claimed that the boy's injury was due chiefly to his previous physical condition. The Court held, however, that the City was liable for all of the damage suffered by plaintiff, adding that sidewalks are intended for the use of the scrofulous, as well as of whole persons.‡

In Maryland, one having a tendency to cancer was allowed to recover his entire damage against one whose negligence resulted in plaintiff's having cancer, though the consequence of the injury, if received by a well person, would not have been serious.§

However, it is well established that if a person has a disease which is aggravated by the negligent act of defendant, he can recover damages only for the aggravation; i. e. forthe difference between his condition before and after the injury. Such was the decision in a case where plaintiff, who was suffering from Bright's disease was in-

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*16 Am. & Eng. Ency. Law 477. Note, in 11 C. C. A Rep. 558 & 9. Sherwood vs. Ry. Co., 82 Mich 383

†16 Am. & Eng. Ency. Law 443; 5 Am. & Eng. Ency Law 43; Beauchamp vs. Saginaw Mining Co., 50 Mich. 163; Jeffersonville R. Co. vs. Riley, 39 Ind. 568.

‡Stewart vs. City Ripon, 38 Wisc. 584. See, a similar case, in Shumway vs. M'f'g. Co., 98 Mich. 412.

§Baltimore R. Co. vs. Kemp, 61 Md. 74.

jured by defendant's negligence which resulted in an aggravation of the illness.*

With the advancement in medical science during recent years, the possibility of successfully feigning physical disease is slight, but, in cases of mental distress or disease, when the symptoms are necessarily largely subjective, it is still possible, if not very simple, for dishonest plaintiffs to impose upon the Courts. Our medical men may be advanced much beyond the knowledge and acumen of Thackeray's surgeon, who diagnosed a case of insanity because Barry Lyndon proclaimed himself to be Julius Ceasar and the doctor to be his affianced bride, Cleopatra. And yet, they are, by no means, equal to the task of deciding, with any certainty, whether one who professes to be suffering from nervous disease, has that illness, or whether the disease, if genuine, resulted from a particular cause.

The intangible character of mental and nervous diseases and the difficulty of verifying their existence, are doubtless the reasons why Courts have, in many cases, denied or limited the right to damages for such suffering. However, it seems to be illogical to refuse compensation to one whose health has been impaired as a result of fright, but, to give damages to one, who has been struck a slight blow having no serious results.

We may consider three classes of cases involving mental suffering. (1) Fright, unconnected with any substantial injury to the person, either physical or mental. (2) Direct physical injury to the person, resulting in, or accompanied by, mental pain or disease, and (3) Cases where there is no direct physical injury, but, as a result of fright, disease, either mental or physical, ensues.

In the first class of cases, the law usually allows no recovery.†

Mental suffering is a proper element of damage only when it is connected with some substantial injury to the

*L. N. A. R. R. vs. Snyder, 117 Ind. 435. See, also, 16 Am. & Eng. Ency. Law, p 444.

†Note, in 11 C. C. A. Rep. pp. 556 &c.

person. It has been said by some Courts that this is so, because mental suffering is "vague" "sentimental" and "metaphysical." *I apprehend, however, that this cannot be the reason why the law does not allow an action in favor of one who, as a result of another's negligence, has suffered mental anguish unaccompanied with physical injury; because the law does allow damages for such injuries in many other cases when the injury, in this respect, must be equally "vague" and "sentimental." The sufficient reason why such an action cannot be maintained is because the law has not yet recognized mental anguish, apart for physical injury, as a cause of action.

This rule is illustrated by a Texas case in which defendant's locomotive frightened plaintiff's horse causing it to run away. Neither plaintiff, who was driving, nor the horse was injured. Plaintiff was not permitted to recover for the fright which she suffered.†

However, the injustice of denying a right of action, for mental anguish alone, in all cases, has induced some of our Courts to modify, or, as some think, to over-rule, this principle in certain cases; and the present uncertainty of the law upon this question is shown in the decisions of the various courts in actions against telegraph companies for negligence in not promptly delivering telegrams. In 1881, the Texas Supreme Court sustained the right of the addressee of a telegram to recover damages for the mental suffering he endured because, by reason of the delay in the delivery of a message announcing his mother's death, he was prevented from attending her funeral.‡

This decision was a new application of legal rules, if not the creation of an entirely new remedy, and the doctrine contained in it has come to be styled the "Texas rule." The same question has, since then, been passed upon by a large number of the Courts of our various

*See, Wadsworth vs. Tel. Co., 86 Tenn. 721, cited in 11 C. C. A. rep. p. 557.

†Ry. Co. vs. Burton, 15 S. W. Rep. 197. See, also, Wyman vs. Leavitt, 71 Me. 227.

‡So Relle vs. Tel. Co., 55 Tex. 308.

States and they are about equally divided upon it; one-half, following the Texas cases; and the other half, denying the right of action under similar facts.* If increased litigation is a sufficient reason for refusing damages in such cases, the facts have fully sustained the reason; for, in Texas and in other States following its lead, we find the books filled with reports of actions of this kind, and these Courts have already begun to limit the scope of their earlier decisions.

The same Texas Court has denied damages to a plaintiff who claimed to have suffered mentally because the family carriage did not meet him at the station upon his arrival home, due to the failure of defendant Company to deliver his telegram.†

On the other hand, it is well established that, in the second class of cases; i. e. when one has suffered a direct physical injury due to the negligence of a defendant, the plaintiff may recover both for the physical damage suffered and, also, for all the mental suffering and anguish which have resulted from defendant's negligence. Not only does the law in such cases give compensation for mental pain suffered by plaintiff up to the time of trial, but it even adds as an element of damage all future suffering, mental as well as physical, which the plaintiff is likely to endure.‡

Some cases seem to carry this rule to an extreme.

In Vermont, one who was bitten by a dog, not mad, was allowed damages for the apprehension of hydrophobia from which plaintiff might in the future suffer.§

In Michigan, a boy whose arm was maimed was given compensation not only for future loss of earning power and pain, but also, for the permanent annoyance or humiliation he would endure.‖

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*See the various decisions cited in 11 C. C. A. Rep. pp. 573 & 4. and 15 C. C. A. 251 &c.

†McAllen vs. Tel. Co., 70 Tex. 243.

‡Note in 11 C. C. A. Rep. p. 561 & 580 &c.

§Godeau vs. Blood, 52 Vt. 251.

‖Power vs. Harlow, 57 Mich. 119.

However, it is said that such future damages, whether physical or mental, must not be speculative, i. e. they must be reasonably certain to occur. This limitation is well illustrated by a New York case in which Dr. Spitzka was a witness. The Dr. testified as to the plaintiff's present condition, tending to show epilepsy. In answer to a question as to what plaintiff's future condition might be, he answered. "A patient sustaining such injuries and presenting such premonitory signs may develop traumatic insanity, meningitis or progressive dementia or epilepsy with its results." The Court of Appeals held that the testimony was objectionable because it violated the rule, that; "To entitle a plaintiff to recover damages for apprehended future consequences, there must be such a degree of probability of their occurring as amounts to a reasonable certainty that they will result from the original injury."*

This rule, although it seems to be just when considered in the abstract, requires, when applied in many cases, a greater degree of certainty than medical science can give. The more careful and experienced physicians can frequently answer, only in the doubtful language used by Dr. Spitzka in the foregoing case, and it results that lawyers, in order to bring their evidence within the limits prescribed by the above rule, call as medical experts, men who are willing to state as certain to result, what the profession knows is only problematical.

Upon the right to recover in the third class of cases, our courts are divided. They are agreed, on the one hand, (with the exception above noted in actions against telegraph companies) in denying a right of action for mental fright or anguish only, and, on the other hand, in awarding full damages, for mental as well as for physical suffering, when connected with a direct physical injury—but decisions from Courts of last resort are at variance, when the question is applied to cases where, as a result solely of fright, there ensues physical or mental disease.

*Strohm vs. N. Y. L. E. & W. R. Co., 96 N. Y. 305.

Many cases sustain the right of action upon this state of facts.

Recently, in England, a passenger on defendant's train was much frightened by reason of the car running violently down an incline and suddenly stopping. There was no physical injury; but, as a result of the fright, plaintiff suffered from nervous shock. A recovery was permitted.*

In a Minnesota case, the plaintiff was a passenger on defendant's street car. At the intersection of another line, the car was driven in front of an approaching cable car. No collision occurred, although it seemed to be imminent. The fright due to the incident threw plaintiff into convulsions and caused a miscarriage. The Court held that, though no action lay for mere fright, yet for physical injury which was the result of fright, there could be a recovery. And, in that case, if fright was a natural result of defendant's negligence and if the fright produced convulsions resulting in plaintiff's illness, then the negligence of defendant was the proximate cause of plaintiff's injuries and she was entitled to a verdict.†

On the other hand, some Courts have refused to allow damages under similar circumstances.

In an early New York case, a woman who was frightened by a runaway horse, as a result of which she suffered serious nervous disease, was held to be not entitled to recover. In that case, the horse barely missed striking her. If it had done so, she would have been entitled to compensation for her fright and mental anguish as well as for her nervous troubles.‡

A most instructive case upon this point is a recent one, also in New York. The plaintiff was about to enter one of defendant's horse cars. Another car approached and the horses, swerving to one side, almost but not quite, touched the plaintiff and so frightened her that a miscarriage

*Bell vs. Ry. Co.; L. R. 26 Q. B. & Ex. Div. 428.

†Purcell vs. St Paul City Ry. Co. 48 Minn. 134. See, also, note in 11 C. C. A. Rep. pp. 559 & 560. C. & N. W. Ry. Co. vs Hunerberg 16 Bradw. (Ill) 387 & 11 Hamilton & Godkin's "Legal Medicine," p. 379.

‡Lehman vs. R. R. Co. 47 Hun. (N. Y.) 355

resulted. In the Supreme Court, it was held that she was entitled to recover. The Court of Appeals (being the Court of last resort in New York), however, denied her right to an action. Among other reasons for this conclusion, the Court said; "If the right of recovery in this class of cases should be established it would naturally result in a flood of litigation in cases where the injury complained of may be easily feigned without detection and where the damages must rest upon mere conjecture or speculation. The difficulty which often exists in cases of alleged physical injury, in determining whether they exist, and, if so, whether they are caused by the negligent act of the defendant would not only be greatly increased, but a wide field would be opened for fictitious or speculative claims. To establish such a doctrine would be against public policy."*

The late Austin Abbott, in commenting approvingly upon the decision of the Supreme Court in this case, before it had been reversed by the Court of Appeals, says:—"We understand that the highest medical authority regards the principle laid down in this case as in accordance with well recognized facts in medicine. It is an admitted fact that mental shock is quite as capable of producing disease as is physical injury. Many diseases known to the medical profession are the direct outcome of nervous shock. There are many forms of such disease. To instance only a few—some of the most violent forms of chorea, commonly known as St Vitus' dance, are due to fright. Mental shock has also frequently been known to produce a disease of the heart, known as Graves' disease. Shock of the kind suffered in this case, therefore, enters into the causation of disease, recognized as such by all medical authorities. When mental shock is of a depressing kind e. g. severe fright—it is very likely to produce insanity, if followed by sleeplessness. These are only illustrations that go to show that disease may be so frequently traced to mental shock that we can say that shock is a true cause,

*Mitchell vs. Rochester Ry. Co. 25 N. Y. Supp'l Rep. 744. 28 N. Y. Supd'l Rep. 1136 & 45 N. E Rep. 354.

and not merely a concomitant. Then, there are too, many diseases which owe their intensity in large part to shock, but of which the shock is hardly the cause, but rather an aggravating circumstance.

"In this case, there can be no doubt that the miscarriage may have been the result of the shock experienced by plaintiff. Shock is certainly capable of producing such a result, and it is of no consequence how far the pregnancy may have advanced."*

It is in the conviction that the questions I have suggested must eventually be solved upon a scientific basis and with the aid of the medical profession, that I propose them to you, with the hope that by enlisting the interest of medical men, the law may, in these respects, become settled upon just and sure principles.

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*I. University Law Rev. p. 10.

TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

APRIL MEETING, 1898.

The April meeting of the Medico-Legal Society was held April 20th, 1898, at the Hotel Marlborough, at dinner, with a large attendance of members and guests. The illness of the President prevented his attendance and Vice-President Albert Bach, Esq., occupied the chair and Clark Bell and Caroline J. Taylor, acted as Secretaries.

The reading of the minutes of the March meeting was on motion deferred.

The following were, on recommendation of the Executive Committee, duly elected to membership:

Active Members, proposed by Clark Bell, Esq.—J. W. Kime, M. D., Editor Iowa Medical Journal, Des Moines, Iowa; Albert Sidney Ashmead, M. D., No. 210 W. Fourth Street, New York City; W. D. Senger, Attorney-at-Law, New York City; John A. Foley, Esq., No. 44 Broadway, New York City, Attorney-at-Law.

Proposed by Caroline J. Taylor—Dr. W. Ann Hatfield, No. 111 West 75th Street, New York City.

Proposed by Judge Abram H. Dailey—F. Delancy Nichols, Esq., No. 375 Fulton Street, Brooklyn.

Proposed by Professor Thomas Bassett Keyes—Professor J. M. Auld, M. D., No. 126 State Street, Chicago, Ill.

Proposed by Rose Maynard David—Dr. E. E. Tull, No. 119 West 80th Street, New York City.

A paper by Dr. Geo. W. Grover, of Sheffield, Mass., was then read, entitled "Psychological Studies of Criminals." This paper was discussed by Judge Abraham H. Dailey, Hon. Jacob F. Miller, Dr. I. N. Quimby, Vice President Albert Bach, and the discussion closed by the author.

A paper by Albert S. Ashmead, M. D., was read by title, entitled "Norwegian Leper Law and International Leper Law."

The views of Henry G. Piffard were submitted—on International Leper Laws—of Dr. Isidore Dyer, of New Orleans; of Charles J. White, M. D., of Boston, Mass.; of Dr Prince A. Morrow, of New York; of Prof. Osler, of Johns Hopkins University, Baltimore, Md.; of of Washington, D. C., and Mr. Clark Bell proposed to submit his views on the subject later on.

The Secretary asked and obtained unanimous consent to invite Mr. Clarence A. Lightner, of Detroit, Michigan, who was present, to read his paper entitled "Medico-Legal Features in Damage Cases," which was announced as the leading paper of the Section on Medico-Legal Surgery announced for May 18, 1898, in joint session with the Society.

It was read. It was moved that the discussion of this paper be deferred to the Section meeting in May, and carried.

The Treasurer, Dr. Thomas Darlington, reported cash on hand after all payments $165.85.

The Society adjourned at a late hour.

ALBERT BACH, Vice-President.
CLARK BELL, Secretary.

MAY MEETING, 1898.

The May meeting of the Medico-Legal Society and of the Section of Medico-Legal Surgery was held, at Dinner, at Hotel Marlborough, on May 18th, 1898, with an unusually large attendance.

At the opening of the session of the Medico-Legal Society, letters of regret were received from the President and the 1st Vice-President, and Mr. Albert Bach, 2nd Vice-President, was on motion called to the chair.

The reading of the minutes of last meeting was, on motion, deferred to June meeting.

The following were duly elected to membership on recommendation of the Executive Committee:

ACTIVE.—On nomination of Dr. F. B. Downs: Stiles Judson, Jr., Esq, of Bridgeport, Conn.

On nomination of Fidel G. Pierra: Prof. Emilio del Junco, Institute of Havana, Cuba, Judge of Local Court, Havana, Cuba, N. Y. City address, 100 West 90th Street.

CORRESPONDING.—On motion of Signor Fidel G. Pierra: Prof. Rai Mondo de Castro, M. D., University of Havana, Fellow of Academy of Sciences, N. Y., address, 243 West 146th Street.

Prof. Dr. Enrique Jose, Varona, Professor of Philosophy, N. Y. address, 74 West 105th Street.

Dr. Vanaude Naeren, Medical Director Asylum for the Insane, President Society Mental Medicine, Tirlemont, Belgium.

Dr. Villers, Assistant Physician for Insane, Hospice St. Jean, Rue Lebeau 33, Brussells, Belgium.

Dr. De Boeck. Chief Physician Insane Department, Hospice St. Jean, Brussells, Belgium.

Dr. Sarolea, Medical Director Hospital for Insane Women, Ghent, Belgium.

The Secretary announced the sudden and unexpected death of our late officer and member, Dr. Isaac N. Quimby, and made an address eulogizing his life, character and career, and moved a committee to submit suitable action.

Vice-President Albert Bach spoke in eloquent terms of the deceased and of the loss the Society sustained in this death, and seconded the motion, which was unanimously adopted.

The Chair named as such Committee, Clark Bell, Esq., Hon. Jacob F. Miller, Geo. W. Grover, M. D., and Judge A. H. Dailey.

A letter from Chancellor Alexander T. McGill, of New Jersey, was read, who had been invited to speak on the life and career of Dr. Quimby.

"COURT OF CHANCERY,
CHANCELLOR'S CHAMBERS,
JERSEY CITY, May 17th, 1898.

My Dear Sir:—I regret that my engagements will not permit me to accept your kind invitation to dine with the Medico-Legal Society tomorrow evening.

I regret also that I will not have the opportunity, as you suggest, to

testify to the high character and worth of the late Dr Quimby. I knew the doctor better as a citizen than as a scientist. No one could follow his course as a citizen without respecting him. He always sought the right, and possessed a courage equal to his convictions. He was an affable, genial gentleman, who made many friends to regret his death.

With kind regards, Very truly yours,

ALEX. T. McGILL."

Dr. Thomas Darlington, Treasurer, submitted his Monthly Statement, showing total receipts since last report, total payments since last report and cash on hand.

The Medico-Legal Society then adjourned, and the Section of Medico-Legal Surgery was opened, Vice-Chairman Clark Bell, Esq., in the chair, in the absence of the Chairman, Chief Surgeon W. B. Outten, M. D.

The Treasurer, Judge W. H. Francis, submitted his report, showing $105 80 in the hands of the Treasurer, which was on motion received and ordered placed on file.

The following gentlemen had consented to act on the Committee of Reception for the May Meeting of this Section and were announced:

Surgeon R. S. Shufeldt, U. S. A., of Washington, D. C.; Ex-President Hon. Jacob F. Miller, of New York City; Ex-President H. W. Mitchell, M. D., of N. Y.; President S. B. W. McLeod, M. D., of N. Y.; Judge Abram H. Dailey, of Brooklyn, N. Y.; Surgeon Webb J. Kelley, M. D., of Ohio; Judge Wm. H. Francis, late of Montana; Surgeon Geo. L. Porter, Vice-President of Society, of Bridgeport, Conn.; Surgeon F. B. Downs, of Bridgeport, Conn.; Surgeon Geo Chaffee, Ex-President N. Y. State Association Railway Surgery; Hon. Joseph Fellows, of N. H.; Dr. W. J. Galbraith, of Omaha.

The paper of Clarence A. Lightner, Esq., entitled *Medico-Legal Features in Damage Cases*, which had been read at the April meeting, was then made the special order for discussion.

The following letter from Judge John F. Dillon was read:

NEW YORK, April 19. 1898.

Hon. Clark Bell, 39 Broadway, New York.

MY DEAR SIR:—I appreciate very much the courtesy which prompted your invitation on behalf of the Medico-Legal Society to attend the dinner to be given by them at the Hotel Marlborough to-morrow evening. I thank you and the Society for it; but I regret that an accident resulting in a personal injury will prevent my being present with you.

My regret, however, is sensibly diminished by having the opportunity of reading the paper of Mr Lightner, wherein he discusses several interesting medico-legal questions in what are known as personal injury cases. The paper is timely. As a lawyer and a judge I have frequently been perplexed by questions of the character which that paper brings into review, and from the legal standpoint I welcome any effort which, in Mr. Lightner's language, will enable the legal profession to have the scientific aid of its sister profession of medicine. This paper shows clearly how much the lawyer and the physician need each other's help in what may perhaps be called the neutral field between the two professions. Very truly yours,

JOHN F. DILLON.

The paper was discussed by Vice-President Albert Bach, who assented to the leading positions of the author, which he explained and amplified.

Surgeon F. B. Downs, of Bridgeport, Conn, spoke on the paper, asserting that the true role of a medical man on the witness stand should be to strictly adhere to the truth, no matter by whom called, and to look only to the justice of the case and a true statement of scientific facts with perfect indifference to results or the personality of the parties.

R. L. Pritchard, Esq., M. D., agreed on the main with the author, but gave incidents from his practice where medical evidence was given by medical witnesses, with entire disregard of the truth.

Dr. Thomas Darlington attributed very much of the adverse comment made upon medical evidence to the unfair manner in which medical men were cross-examined, charging both upon the lawyers and the judges the responsibility for permitting medical men to be badgered and pressed with improper and irrelevant questions intended to confuse and break the force of their testimony.

Hon. Jacob F. Miller gave his view of the true duty of the medical witness, placing it upon the high ground taken by Dr. F. B. Downs.

Dr. R. S. Gunn spoke of the corrupt practices of medical paid witnesses and experts who had brought disgrace upon medical evidence, and cited cases from his experience where medical witnesses had given false testimony.

Clara Foltz, being called, spoke without having read Mr. Lightner's paper, defining the true position of the lawyer and medical witness, insisting that the rules of evidence and the courts of law would protect and defend the right and redress wrongs; also against the assaults made on both professions by the discussion; and made an eloquent appeal for the purity of both professions and the Bench in these cases.

Mr. Clark Bell asked and obtained leave to submit his own views and those of other speakers later in the transactions.

He announced the coming meetings of the National Association of Railway Surgeons; the American Academy of Railway Surgeons and the Section of Medical Jurisprudence, at the meeting of the American Association of Physicians and Surgeons, to be held at Chicago, on June 1st to 4th, proximo, and the great meetings of next month, at Denver, of the medical profession.

The Section adjourned at a late hour.

ALBERT BACH, Vice-President.
CLARK BELL, Vice-Chairman
Section Medico-Legal Surgery.
CAROLINE J. TAYLOR, Assistant Secretary.

JUNE MEETING, 1898.

The June meeting of the Medico-Legal Society was held at dinner at the Marlborough Hotel, June 15th, 1898. The President was absent attending the funeral of a relative, and in the absence of the 1st Vice-President, Mr. Albert Bach, Second Vice President, took the chair, and Clark Bell, Esq., as Secretery.

The reading of the minutes of the May meeting was, on motion, deferred till next meeting.

On recommendation of the Executive Committee the following were duly elected to membership:

Active, on recommendation of Clark Bell, Esq.—Dr. Frank W. Ross, of Elmira, New York; Dr H. F. Waite, 460 Lexington Avenue, New York;

Corresponding members—Proposed by Clark Bell, Esq.: Arvid Grotenfeld, Doctor of Psychology, University of Helingford, Finland. Hodgson Pratt, Esq., President International Arbitration and Peace Association, care Humanitarian League, 33 Chaney Lane, London, W. C., England. Dr. Beriat, President Medico-Legal Society of France, Paris.

The regular order of business was then taken up.

Paper by Clark Bell, Esq., LL. D., entitled "Progress of Medico-Legal Surgery," was read by title only at request of author.

Paper by Dr. Frank W. Ross, President Academy of Medicine, Elmira, New York, entitled "The X-Ray in Forensic Medicine," was read by the author.

Paper by J. Mount Bleyer, M. D., F. R. A. M. S., LL. D., New York, entitled "The X-Ray and its Safe Application; Destruction of Infection by Electro-Sterilization," was read by the author.

This paper was illustrated and the X-Ray and its practical use demonstrated before the Society as well as the practical method of disinfection by electro sterilization and both the papers were discussed together by Dr. Montague R. Leverson, Dr. D. Benjamin, Dr. W. S. Gottlieb and the discussion closed by Drs. Ross and Bleyer.

Paper by J. Adelphi Gottlieb, M. A., M. D., Sc. D. of New York, on "Feigned Diseases: their Purpose, Recognition and Importance," was read by title.

A paper entitled "Medical Evidence in Criminal Cases," by W. H. S. Monck, Esq., of the Dublin Bar, was, owing to the lateness of the hour, read by title. The following papers were also read by title: "The Right to Commit Suicide," by Gustav Bœhm, Esq.; "The Brutality of Capital Punishment," by Gustav Bœhm, Esq.; "The Classification of Insanity," by Simon Fitch, M D., of Halifax, Nova Scotia, and all the papers ordered printed in the Journal.

On motion it was resolved that the Society proceed to elect a Trustee, vice Dr. Harriette C. Keatinge, resigned.

The chair held that unanimous consent, and a suspension of the rules, was necessary, which on motion was carried unanimously.

On balloting for Trustee to fill the vacancy, Dr. J. Mount Bleyer was duly elected to fill the vacancy. The Executive Committee reported that it had authorized the officers to make a contract with the Medico-Legal Journal for the publication of volumes 16 and 17 on the same terms and conditions as the existing contract of 14 and 15.

The Secretary asked for action as to delegates for foreign bodies.

The Secretary was appointed a delegate to all bodies, with whom we are in correspondence, and in addition authorized to appoint such associate delegates as could visit foreign and domestic bodies the coming season.

The following communication was made by Rose Maynard David as her report as delegate to the Medico-Legal Society of France.

June 15th, 1898.

To the Medico-Legal Society of New York.

My Dear Confreres:—At the request of our Secretary, Mr. Clark Bell, I offer you a report of my visit as delegate to the Medico-Legal Society of France.

One year ago, on the 14th of June, 1897, I was present at one of the sessions of the Societe de Medecine Legale de France. These seances take place the second Monday of each month, at four o'clock, in the Palais de Justice, (Salle des Refrees.)

I was informed that no one passes these doors except duly authorized members as there they have no sections.

The novelty of being the only woman admitted did not so distinctly im-

press me, as those who were entering who saw for the first time a woman on the platform.

The difficulty for a French woman to gain such a position has been evidenced by the recent struggles of Mlle. de Chauvin (avocat) which agitated the French courts and papers for a season.

Mon. le Docteur Charpentier, member of the Academy of Medicine of Paris and Vice-President of the Society, extended to me the courtesy of his escort and introduction to his colleagues.

The Society of Legal Medicine of France, founded in 1868, comprises, in numbers, 210 members, at the present writing, of which 100 are corresponding, 30 associate or foreign and 20 honorary. This report is from the general secretary M. le Dr. Mote , since the May meeting 1898.

The same officers remain as last year, President, M. Benoit; Vice-Presidents, M. le Dr. Charpentier and M. le Dr. Ladreit de la Charriere; Secretary General, M. le Dr. Motet; Assistant Secretaries, Drs. Briand and Vallon; Treasurer, Dr. Socquet.

The subjects discussed at this seance came under the heading of "Premature Birth." "The inability of a chemical examination of the blood to disclose pregnancy or recent childbirth." "The legal position of the physician." One conclusion was that the doctors were not legally held to declare or report births, occurring permaturely, under four months.

The extracts of the meeting I hold in published form, which accompany this paper.

Dr. Charpentier informed me of the excellent system practiced there by which every unknown fatherless infant is taken under the care of an institution, which the law provides, is registered, given protection and a name; which cannot be changed or intruded upon unless the child is applied for by a just claimant within a limited time. These waifs are given a sufficient education for a means of support and are then launched upon the world with no other birthright than the hereditary tendencies and unfavorable prenatal influences, with no known father, mother, or protector than the Law of France.

Drs. Auguste Lutaud, Editor in Chief of the Societies' Journal, Motet and others referred to pleasant recollections of our Secretary, Mr. Clark Bell, whose name seemed to act as passport between the two societies, and my reception was conducted with all the enthusiasm and courtesy that the French nature throws into ordinary events.

A corresponding membership was extended to me. I received a letter of my nomination at their next seance including a polite expression of their desire to manifest their high esteem and sympathy for the Medico-Legal Society of New York and to the Honorable Mr. Clark Bell, for presenting to them a representative, etc.

My after-experiences, by far the most interesting in exploring the "Mysteries of Paris," through laboratory and hospital for the "new therapeutics," I will be glad to offer as an after dinner cordial when there is space.

Very truly,

ROSE MAYNARD DAVID.

The report was received and ordered entered on the minutes.

The Society adjourned until after the vacation.

ALBERT BACH, Vice-President.

CLARK BELL, Secretary.

EDITORIAL.

THE UNITED STATES AND SPAIN.

Since our last issue our government has been forced into a war with Spain, which, as we go to press, is being prosecuted with great energy and the whole power of the American government.

The Italian minister is credited with having said recently, in a private conversation, "That Spain was a dead nation."

She is certainly the most unfortunate of all the old nations now remaining. Her glory is of the past—a reminiscence. She does not seem to have the capacity, either to learn from experience, or to see the trend and progress of the civilization of our age, or to deal fairly and honorably with her colonies. Her statesmen prefer to discuss the questions, which they have been taught, to place higher than all other considerations "the so-called honor of Spain," rather than to consider the rights of her colonies, and dependencies, or the claims of her despairing children in Cuba.

It has been said to me, by Cubans of great experience, that there is scarcely a man born on the island of Cuba, even of Spanish parents, whose sympathy is not with the Cubans in this struggle against the tyranny of Spain to the unfortunate children of her own blood.

For more than a third of a century the Cuban question has been a constant source of irritation to the people of the United States. Spain has been absolutely blind to the rights of her colonies and deaf to their continuous cries and appeals. What has been known and read, of all men and all people, in all parts of the civilized world, she ignores and refuses to see or to hear. She has no ear for the cry of her starving children in Cuba. She will not give them those rights con-

ceded everywhere else, by all people throughout Christendom; and she has gone into a war with the American nation rather than yield to the just demands of her Cuban colonists, which are based on the natural rights of man everywhere else recognized, except at Madrid; a war that will remove her from among the great powers of the world, and force us to absorb her dependencies, which we do not want, nor need. The incident of Rear Admiral Dewey's marvellous success in the Pacific Ocean, deprives Spain, at a blow, of the Philippines, and forces us, whether we will it or not, into an entirely novel and strange position with regard to Continental Europe. We are compelled to take these islands by the law of right and conquest, which would be desirable, to Great Britain and other European States. The consequences of this acquisition to our country are beyond human vision. They involve entirely new and unexpected combinations and alliances, and may force us into "entangling alliances," which we have thus far hitherto avoided.

Cuba must now shortly fall into our hands, and Porto Rico, we must also take,—by the same inexorable fate. It is the fortune of war. There can be no doubt of the bravery of the Spaniard, whether of to-day or of the centuries since their flag came upon this continent The brave men who went down with the ships under Admiral Dewey's guns, demonstrates that bravery and valor which animates the Spanish race. The struggle is much like that between Spain and the Montezumas. The Aztec of the 15th century, though tenfold in numbers, brave, valiant and fighting with desperation, but without knowledge, were no match for the Spaniard, who blotted out of the list of nations, a race that had dominated the Continent; neither their bravery, their valor, nor the sacrifice of their lives, their temples, or their gods, saved them from a destruction too terrible for us to realize. History repeats itself. The flag that Cortez planted over the destruction of a race, is now to go down, in its turn, before the advancing march of the rights of man to self-government.

It is all absurd to call it a war of the Latin race against the Anglo-Saxon.

France is in the forefront of the civilization of Europe. She floats to-day, the flag of a republic, and guarantees liberty and freedom as the natural birthright of every Frenchman. The natural ally and friend of the United States, she will never ally herself with that decaying monarchy, which has caused her to blush at the inefficiency of Spanish sailors at Manilla.

There is not another flag upon the continent of Europe, that could have been so ignominiously routed as was the Spanish flag at Manilla. Had it been a French, a German, an Italian, or a Russian fleet in that harbor, would Dewey have carried his whole fleet through that long, mined passage without a shot, or a search light, or a gun?

Mere bravery does not win alone. If an American commandant had permitted the fleet of an enemy thus to enter and destroy a fleet, without the loss of a man, he might have been cashiered and stripped of his uniform. We respect the brave Spanish officers, who went down with their ships, we lament their ignorance of seamanship and skill in modern warfare that shows the decadence of a nation.

The sympathy of christendom must be with the American flag in this war, which rests on the highest, noblest ground of any war of recent times. What would be the voice of England in such a contest, not alone of her rulers, but of her people—the same England that lost her American colonies in the last century, because her rulers were touched with the same madness and insanity that has inoculated the Spanish throne and its advisers. The thoughtful, sober second thought of all the great nations of the world will be in sympathy with our army and flag in this struggle.

Italy will not break with her American friends for the sake of a people who live in the delusive atmosphere of a decaying grandeur. She helped Spain to a Columbus, but she will not excuse, pardon, or forgive her blunders, nor participate

in the disasters that Spanish superciliousness and ignorance have caused and must result in the near future.

We do not contemplate war with pleasure, but the entire American people are united at this moment, and unless Spain recedes, and quickly, she will disappear as a powerful nation.

Has she no statesman wise enough to make rulers recede, and quickly, ere all is lost to Spain? Awake, Emilie Castelar, and send out that clarion voice whose eloquence has electrified the world. Be the Kossuth of Spain, her Bolivar, her Washington. American does not want Cuba, nor the Pilippine Islands nor Spanish colonies, nor Spanish treasures. She demands the freedom of Cuba. It must now be free. It has already cost us millions of money. We are about to pour into this struggle the blood of our sons. It is now too late for Spanish statesmen to avert these results of the past, but it is not too late to save for Spain her "Honor," if she awakens so as to read aright the meaning of the word.

ADMIRAL DEWEY AT MANILLA.

No naval victory, in the recent history of man, is at all comparable, to that which this gallant man and his fleet have accomplished. The lustre of this grand and noble work will reflect to the credit and glory of the American flag and nation.

A bloodless victory, it carries with it consequences to the future of our country and the cause it represents in this struggle, which none can fully foresee, but will force our Government into more intimate relations with the great powers of the world. We shall be compelled to have a standing army of at least 100,000 men in the future.

Our present navy must be quadrupled. We can take no backward steps. Revolutions never go backward.

The splendor and glory of Admiral Dewey's achievement will not only fill the brightest page of naval victories, but will

raise American valor and seamanship in the estimation of mankind.

Dewey, with his cool courage and splendid daring, has written his name in ineffaceable characters, upon the brightest page of American naval history, and has caused every heart to throb throughout the world that loves liberty and the cause of freedom.

ISAAC NEWTON QUIMBY, M. D.

No death has come nearer to the hearts of the management of the Medico-Legal Society, in recent years, than that of the sudden demise of Dr. Quimby.

Like Prof. Mott, he had endeared himself to his associates, in such ways, as to make all regard his loss as a personal affliction. He was nominated for the Presidency of the Medico-Legal Society, at the December meeting, 1897, and declined, because of his work in the American Medical Association this year, of which he was a member of the Judicial Council, saying that later he should be proud of the honor.

Dr. Quimby was born August 5, 1831, at Bernardville, N. J. He was a great grandson of Judge Nicholas Emmons, of the Supreme Court of New Jersey. His father, Nicholas Emmons Quimby, served in the war of 1812, and his grandfathers, on both sides, served in the war of the Revolution. He graduated at the University Medical College, of New York, in 1859. He served in the war of the Rebellion, as a volunteer surgeon, under Gen'l McClellan, at Chickahominy, the Wilderness, at James River, Harrison's Landing and Antietam, and, his health failing, he returned home and commenced the practice of his profession.

He lectured in the Spring Course, at his Alma Mater, of 1866-68, and assisted Prof. A. C. Post there in his surgical clinic.

He was, for many years, a member of the Medico-Legal

Society, and one of the members of its Board of Trustees; Honorary Vice President of Medico-Legal Congress, to which he contributed two papers, and was a member of a large number of societies and organizations.

He was surgeon of Chert Hospital, Jersey City, until 1873, which he originated, and attending surgeon of Jersey City Hospital.

Dr. Quimby was an earnest and an enthusiastic man. He was intense, in the best sense of the word.

His career may be divided into two parts. That of his success as a man, a physician and a citizen; and second, as a reformer.

He was an earnest, devoted, enthusiastic friend of temperance, and a sworn and constant foe and enemy to Alcohol.

Into this field of his life work he threw all his energy, and he was recognized, by all, as one of the most advanced friends of temperance. He was, also, identified with the reform political nominees of his city and county.

Dr. Quimby left a widow, Frances H. Quimby, nee Flemming, and two sons, Alfred C. P. Quimby, by a prior marriage, and Isaac I. Quimby, Jr., by the later marriage.

MECHANICAL RESTRAINT OF THE INSANE.

We have to thank Dr. P. M. Wise, State Commissioner in Lunacy of New York, for calling our attention to one of the most instructive exhibits at the International Health Exposition, recently closed at the Central Palace, was the nurses' exhibit. In this exhibit the state hospitals of New York had several booths, which they used to represent the past and the present methods of caring for the insane. In one booth was gathered all the implements of restraint that were formerly used in the treatment of the insane, such as padded cell, Utica crib, restraining chairs, Dr. Rush's tranquilizer, muff, camisoles, etc.; while in the annexed booth, was

represented a modern hospital ward for the treatment of the acute insane. The contrast was astounding to many who had been ignorant of the recent changes in the treatment of the insane, for which New York stands far in the front. A pleasing commentary of this exhibit is the fact that one of the committee in charge attempted to find a padded room. They were unable to find any connected with the state hospitals of New York, and were obliged to go to a general hospital and borrow one for this purpose. It was also quite difficult to get samples of other apparatus, and it was necessary to go outside of New York in order to get some specimens. The modern sick room for the insane was a faithful representation of a room in the state hospital service, and illustrated faithfully the care given the insane in the acute stage of the disease, when competent and skilled nursing is requisite. The value of this exhibit was recognized, in the fact that the bronze medal for one of the most instructive exhibits of the exposition was accorded to the state hospital exhibit. In no department of medicine has there been greater advances than in the treatment of the insane, and even the changes of a decade are surprising when brought together side by side, as they were at this exposition.

NATIONAL CONFERENCE OF CHARITIES AND CORRECTIONS.

The twenty-fifth annual conference was a very successful meeting held in New York City, May 13th to 25th, 1898. Among its most interesting features was the report of the Committee on Insanity," Wm. G. Stearns, M. D., Chairman. Richard Dewey, M. D., presiding.

The following papers were submitted:

"After-care of Indigent Persons discharged recovered from Institutions for the Insane," Henry R. Stedman, M. D., Boston, Mass.

"The Professional Work in Hospitals for the Insane," Edward Cowles, M. D., Medical Supt. McLean Hospital, Waverly, Mass.

Discussion:—a. "In Clinical Work," Adolph Meyer, M. D., Worcester, Mass.; b. "In Laboratory Pathology," Ira B. Van Gieson, M. D., New York, N. Y.; c. "In Laboratory Psychology," Prof. W. O. Krohn, Ph. D., Hospital, Ill.

"Insanity,'" William G. Stearns, Superintendent Illinois Eastern Hospital.

"Advanced Professional Work in Hospitals for the Insane," Edward Cowles, M. D., Medical Supt. McLean Hospital,Waverly, Mass.

Discussion by Hon. Peter M. Wise, M. D., President State Commission in Lunacy, New York.

These papers were discussed by Richard Dewey, M. D., of Wisconsin; Geo. H. Rohe, M. D., of Maryland; G. Alden Blumer, M. D., of Utica, New York; Clark Bell, Esq.; Dr. Ira B. Van Giesen, of New York.

There was an unusually large attendance.

Prominent among the delegates, were those grand old standard bearers of this work, Hon. Wm. P. Letchworth, ex-Chairman New York State Board of Charities, and ex-President of the Association, Frank B. Sanborn, of Concord, Mass.; Frederick H. Wines, Secretary State Board of Illinois, who have attended every annual meeting of the body for years.

THE ENGLISH HOME OFFICE AND REASONABLE DOUBT.

The London Journal "Personal Rights," of May 15, last, has a leading article on this theme, which makes some important statements. The writer claims:

Most persons will, we think, be of opinion that a prisoner is entitled to the same benefit from a reasonable doubt as to his guilt established after his trial as from a similar doubt established at his trial—the merits of the case turning on the nature of the doubt and not on the time or manner in which it is brought to light. And we think the public will equally

agree with us that, where a jury has, owing to the strength of local feeling, the partisanship of the Judge, the inability of the jurors to form a correct estimate of technical evidence, or from any similar cause, failed to give the prisoner the benefit of a reasonable doubt at the trial, there ought to be some means by which such prisoner may be placed in the same position as if the correct verdict had been found. The reasonableness or otherwise of the doubt is the only point to be considered, if we are really desirous of rendering full justice to the prisoner.

There appears to be a popular belief that this principle is acknowledged and acted on by the English Home Office; though many recent cases, including that of George Young, to which we referred in our last issue, point in a very different direction. The popular belief, however, has an historical foundation. The Home Office did really, for a time, act on the principle which we advocate, long after the accession of Her Majesty. The change, which we regard as a very decided change for the worse, is of comparatively recent introduction. The misfortune is that *the Home Office, being a Government office, can practically alter the principles on which it acts without giving the public any notice of the alteration;* and can thus still be mistaken for a very favorable tribunal for prisoners to appeal to because it was really such forty years ago, whereas it is now altogether the reverse.

The cases cited by this writer, to establish the earlier doctrine of free pardon in cases of reasonable doubt, was that of Dr. Thomas Smethurst, convicted in 1859 of the murder of Miss Bankes, in which the then Home Secretary, Sir George Cornwall Lewis, referred that case to an eminent physician and publicist of that day, Sir Benjamin Collins Brodie, who reported, that he

"was of the opinion that, although the facts are full of suspicion against Smethurst, there is not absolute and complete evidence of his guilt."

The decision of the Home Secretary in that case was:

"After a very careful and anxious consideration of all the facts of this very peculiar case, I have come to the conclusion, that there is sufficient doubt of the prisoner's guilt, to render it my duty to advise the granting to him of a free pardon.

"The necessity which I have felt for advising her majesty to grant a free pardon in this case has not, as it appears to me, arisen from any defect in the constitution or proceedings of our criminal tribunals; it has arisen from the imperfection of medical science, and from fallibility of judgment in an obscure malady, even of skillful and experienced practitioners."

Which demonstrates that in the opinion of the then Home Secretary this view was then the settled policy of the home office.

The writer also cited the action of the Home office in the case of Pelizzioni.

The Home office, however, as this writer claims, has changed its policy as to reasonable doubt, due to the action of Mr. Cross, now Lord Cross, who filled that position in 1874 to 1880, in the celebrated case of the Stauntons, known as the Penge mystery; the issue being whether death of Mrs. Staunton was caused by starvation or consumption, and this officer also ignored and disregarded the established principle in the case of the convict Perryman, and only yielded and recommended the pardon after a debate in the English Parliament, and an able speech by Mr. John Bright.

Patrick Staunton died in prison, his wife was held ten years before liberation, while Louis Staunton was only liberated last year, after twenty years penal servitude, for a crime which Sir William Jenner and others believed had never been committed.

Although Sir Wm. Harcourt held, as Home Secretary, in the case of John Hay, "on mature consideration that a reasonable doubt entitled a prisoner to a free pardon," he still refused the application of the doctrine in the Staunton cases

The cases under Home Secretary Matthew, of Brannagan, and Murphy, where free pardons were granted with £800 compensation, upon confessions by Richardson and Edgell, the truth of which became later in doubt.

The writer claims that now the policy of free pardon on reasonable doubt no longer exists. He says:

The present Home Secretary can hardly be charged with making matters worse than he found them. If he has liberated Mr. Wallace Spriggs on a ticket-of-leave only, and remitted the remainder of George Young's sentence, he has not, in this respect, gone beyond Mr. Asquith, nor perhaps beyond Mr. Matthews. Reasonable doubt is no longer treated as any ground for a free pardon. It merely leads to some allev ation of the punishment. It may prevent a death-sentence from being carried out, only to leave the prisoner under a life-sentence. It may lead to the remission of part of a sentence of penal servitude or imprisonment; but, in the case of penal servitude, it more usually leads to a ticket-of-leave—a process which leaves the prisoner still in the power of the police and may prove a serious hindrance to his obtaining employment. He is, moreover, almost entirely deprived of civil rights until the expiration of

his original sentence, which may expire only with his life; and, even after the sentence has expired, a man once convicted of felony remains under certain disabilities which a free pardon can only remove. One of these, which occurred in the case of John Hay, is inability to hold a publican's license.

In Scotland, there is a verdict of Not Proven as well as of Not Guilty. What would the Scottish people think of a proposal to give their verdict of Not Proven the same effect that is now given to the Not Proven of the Home Secretary? Indeed, if there were no other reasons for the creation of a Court of Criminal Appeal, it seems to us that the treatment of reasonable doubt by the Home Office would afford sufficient grounds for it. A Court of Criminal Appeal would act publicly upon fixed legal principles, which could not be altered or grossly misapplied without attracting the notice of the public, and which could be modified by the Legislature if the public we e dissatisfied with them. This is the only satisfactory solution of the problem presented by judicial errors—one of the most pressing and important problems of our time.

This throws some light upon the action in the case of Mrs. Maybrick. There is not only "reasonable doubt" in her case, but it is substantially a moral certainty now that Mr. Maybrick's death was not due to arsenic at all, aside from the absence of any proof that she administered it. If the English Home office no longer recognize "reasonable doubt" as cause for free pardon, and have substituted commutation for free pardon, in a case when the decision is based on "reasonable doubt," we may have a clew to the detention of this unfortunate, whom half the world believe absolutely innocent of the crime charged.

It is a great pity that such a doctrine now obtains in the English Home office, and even under the hardest side of it, has not she suffered long enough to satisfy the Home Secretary that he should interfere for other reasons than "reasonable doubt" alone?

SIR WILLIAM GLADSTONE.

The death of this grand character, at the close of the nineteenth century, marks an epoch.

He entered the English House of Commons in 1832, so that for the last two-thirds of the century, he has been an

active factor in the government of England: a longer period of public service than any man of our era.

No single mind in Great Britain ever exercised as much public influence in the period of his life as this statesman. Without any English blood in his veins he has been called the greatest statesman Great Britain has produced. Almose wholly Scotch in blood, he has maintained a wonderful influence over Englishmen, and, longer than any other man, has controlled Anglo-Saxon thought and action. I have regarded Mr. Gladstone, for the recent quarter of a century, as one of those types of manhood which represent the most advanced and grandest men of high intellect of this century.

He was in this sense not an Englishman, not an Anglo-Saxon, but a self-crowned king in the higher and nobler domain of the empire of intellect, and Bismarck, who survives him, has many points of contact and equality with the great British commoner. It is difficult, however, among men living on the globe to find one who in all respects we can feel was his superior. He has been compared to our dead Lincoln, but they scarcely resembled each other in any respect. Lincoln was incomparable in the sphere God assigned to him, and the dead Briton has no rival or compeer, as it seems to me, now remaining among the lustrous names that graced the nineteenth century.

THE BULLETIN OF THE MEDICO LEGAL CONGRESS.

We are glad to announce the publication of the Bulletin of the Medico Legal Congress, that has been so long delayed. The following is the announcement that appears in the forthcoming volume, which will be sent to all the enrolled members of that Congress as soon as it is completed.

ANNOUNCEMENT.

To the Fellows of the Medico-Legal Congress:—

An apology and an explanation is due to you for the delay in the publication of the transactions of the Medico-Legal Congress, held in New York, in September, 1895.

First. The provision for the expenses of the publication were inadequate, and the plan finally adopted was to publish the papers read before the Congress in the Bulletin, where the authors were willing to aid in defraying the cost of publication.

Second. A considerable number of the papers, presented to the Congress, were read by title, and the manuscript of the articles were not placed in the possession of the officers. Unavoidable obstacles prevented and delayed me in obtaining these much desired copies, and this, coupled with a desire to embrace as many as possible in the volume, and the tardiness of my colleagues in sending the copies of papers, have been leading reasons which occasioned the delay.

Third. A large portion of the work being more than one hundred pages at the beginning of the volume, was completed, but through the dishonorable conduct of a printer was withheld from the officers after full payment had been made, which necessitated the extra expense of reprinting the same over again, at a large cost. A suit had to be brought for redress, which is still pending, but which can not now expedite the work.

The following papers announced in the programme of the Congress have not been included in the present volume, to the great regret of the undersigned, but farther delay in the issue does not seem likely to result in their publication in the near future. It is hoped that most of these may be published later, in an additional volume which I shall do all in my power to aid if undertaken and thought advisable. The volume is presented, as the result of the best efforts possible, to present a volume which will be a notable contribution to the literature

of forensic medicine,as the result of the labors of that Congress.

NEW YORK, 1898. CLARK BELL.

We regret that so large a number of papers printed at the Congress have not been embraced in the volume, but its completion could not longer be delayed for this reason. If authors of unpublished papers desire; a large number of these can be still published as a supplement, or Part 2 of the Bulletin, which is, however, now larger by far than was expected at the inception.

LIST OF PAPERS OMITTED FROM THIS VOLUME.

"The Progress of Lunacy," by Dr. Forbes Winslow of London.

"What Constitutes Unsoundness of Mind," by W. B. Fletcher, M. D., of Indiana.

' The Mental Symptoms of Premature Decay," by Frank P. Norbury, M. D., of Illinois.

"Latent Hysteria as a Cause of Temporary Mental Disease," by James R. Cocke, M. D., of Boston.

"Paranoia," by Prof. C. H. Hughes, M. D., of St. Louis.

"Simulation of Insanity," by Wm. F. Drewry, M. D., of Petersburg, Virginia.

"Inebriety and the Opium Habit in their Relation to Testamentary Capacity," by E. C. Mann, M. D., of New York.

"Prostitution; the Evil and the Cure," by Gustave Boehm, Esq.,

"The Megalomania of H. P. Blavatski. A Study of Criminal Alienism," by Prof, Elliott Coues, of Washington, D. C.

"The Evolution of Theosophic Medicine and its Present Standing in the United States," by P. C. Remondino, San Diego, Cal.

"Hypnotism in the German Courts:" The Czynski Case, by Elwood Wilson, Esq.

"Duplex Personality," by Wm. F. Drewry, M. D., of Virginia.

"Duties of the Railway Surgeon to the Corporation, to the People and to Himself," by Prof. A. M. Phelps, M. D., of New York.

"Mental States of Railway Employees," by Chief Surgeon W. B. Outten, M. D., of St. Louis.

"Tuberculosis in Legal Medicine," by Chief Surgeon W. B. Outten, M. D., of St. Louis.

"Shock in Railway Surgery," by H. W. Mitchell, M. D.

"The Relation of Occult Medicine to Law," by Mary Weeks Burnett, of Chicago, Ill.

"Physician's Relation to his Client and Obligation as a Citizen of the State," by Constantine J. MacGuire, M. D., of New York.

"The Legal Evolution of Woman," by Kate L. Hogan, LL. B., of New York.

"What Are We?" by Hon. C. H. Blackburn, of Cincinnati, O.

"Intermediate Sentences, as Affecting Congenital Criminals," by Geo. Gordon Battle, Esq.

"Relation Between Chemical Constitution and Physiological Action," by Prof. Peter Townsend Austin, of Brooklyn.

"What may be the Part of Bacteriology in Forensic Medicine," by Paul Gibier, M. D.

"Toxine and Anti Toxine of Tetanus," by Paul Gibier, M. D., of N. Y.

MEDICO-LEGAL PAPERS, VOLS. 4 AND 5.

Three volumes of Medico-Legal Papers have been published some years ago. It was then the intention to complete the unpublished papers read before the Medico-Legal Society prior to the founding of the Medico-Legal Journal, June, 1883. This required a considerable outlay in money, and only three volumes were completed, for want of funds, but Vols. 4 and 5 were edited and prepared for publication, which made the record of the labors of the Medico-Legal Society complete, the Medico-Legal Journal taking up the work of publication where Vol. 5, Medico-Legal Papers left it off. The original subscription price of these volumes were $3 per volume, and members subscribed for them in advance to aid in defraying the cost of publication.

An appeal is now made to the members of the Society and all students of Forensic Medicine to aid in bringing out these two remaining volumes—Nos. 4 and 5 of Medico-Legal Papers.

Those willing to subscribe for them will please advise the Secretary.

Vol. 4 will be first issued in the style of the 2nd edition of the 1st volume of the Medico-Legal Papers, with illustrations, at $2.50 each in cloth, and $2.00 in paper.

Subscribers who will subscribe for both volumes at once and pay in advance, can have them both for $4.00 in cloth, or $3.00 in paper covers.

If out of the over 1,000 members of the Medico-Legal Society only 100 subscribe for these publications, it will insure their publication, as a party has undertaken to furnish all the necessary funds for that purpose if 100 subscribers only can be found for the edition.

A list of the subscribers thus far is given herein:

Clark Bell, N. Y.,	1 Copy	Vols. 4	and 5	in Cloth,	paid.
Dr. Geo. L. Porter, Bridg'pt., Conn.,	"	"	"	"	"
Carl Sextus, of N. Y.,	"	"	"	"	"
Judge L. A. Emery, of Maine,	"	"	"	"	"
Albert Bach, of N. Y.,	"	"	"	"	
Dr. R. J. Nunn, Savannah, Ga.,	"	"	"	"	
Dr. W. F. Dewry, of Va.,	"	"	"	"	
Dr. Henry W. Coe, of Oregon,	"	"	"	"	
R. R. Brower, M. D., Chicago, Ill.,	"	"	"	"	
Clarence Lightner, Esq., Mich.,	"	"	"	"	
M Louise Lhomas, N. Y. City,	"	"	"	"	
Judge H. Clay White, Cleveland, O.,	"	"	"	"	

will be continued in the next number Medico-Legal Journal.

The illustrations will be portraits of eminent members of the Society, and distinguished Medico-Legal jurists, with sketches of their lives and careers.

CLARK BELL, *Secretary.*

BULLETIN OF THE MEDICO-LEGAL CONGRESS.

We are glad to announce that this long delayed volume will now shortly appear.

A copy will be sent to each enrolled member of the Congress. Should members of that body not receive it, they will confer a favor by advising this Journal. It will be illustrated with portraits of its officers, members and authors of papers.

VOLUMES 4 AND 5 OF MEDICO-LEGAL PAPERS.

There has been unexpected delay in completing the issue of these volumes.

Some portions of the issue have been mislaid of each volume, which has delayed their publication, and it may be necessary to reprint some of the forms of each.

We hope to have it completed by the time the September number of the Journal comes out. Those desiring to order the volumes will kindly send their names and address to the Editor

of this Journal. The volume will be illustrated after the style of Volume 3, Medico-Legal Papers, or third edition of Volume One of the same.

The following additional subscribers are announced since last issue:—

Hon. Wm. P. Letchworth, Portageville, New York; The State Hospital for Vermont, Waterbury, Vermont.

AMERICAN ASSOCIATION OF PHYSICIANS AND SURGEONS.

American Association of Physicians and Surgeons, held its fifth annual meeting, at the Auditorium Hotel, Chicago, Ill., on June 1, 2, 3, 4, 1898, Prof. Thomas Bassett Keyes, M. D., Chairman of Local Committee, 100 State St., Chicago, under the Presidency of Dr. Wm. D. Gentry, of Chicago.

The following was the programme of the section on Medical Jurisprudence on the last day June 4, 1898.

Consideration of Section of Medical Jurisprudence and State Medicine under Chairmanship of Clark Bell, Esq., LL. D., of New York, President of the International Medico-Legal Congress, Editor of the Medico-Legal Journal and Honorary Member of this Association.

1. Address by Clark Bell, Esq., LL. D., "Progress of Medico-Legal Surgery."

2. Paper by Dr. Frank W. Ross, President Academy of Medicine, Elmira, N. Y., "The X Ray in Forensic Medicine."

3. Paper by J. Mount Bleyer, M. D., F. R. A. M. S., LL. D., of New York, "The True Sequella of the X Ray."

4. Paper by Eugene Bettes, of Washington, D. C., "A Parallel and a Lesson."

5. Paper by Surgeon J. N. Hall, M. D., Denver, Col., "Gun Shot Wounds of the Viscera."

6. Paper by J. Adelphi Gottlieb, M. A., M. D., Sc. d. of N. Y., "Feigned Diseases—their Purpose, Recognition and Importance."

THE INCREASE OF CIRCULATION.

For some years past our circulation has kept very steadily at 2,000 copies, but it increased last year very rapidly, and is steadily growing.

For the benefit of our advertisers, who always take a lively interest in the circulation of a journal, we publish a copy of an affidavit made by one of the officers of the York Daily Publishing Company, of York, Pa., who have had charge of the printing and getting out of this Journal:—

COMMONWEALTH OF PENNSYLVANIA, |
COUNTY OF YORK. |

Personally appeared before me, a Notary Public in and for said county, S. C. FREY, who deposes and says: That he is the Treasurer of the York Daily Publishing Company, and that he is in a position to know of his own knowledge the work that is done in said office: that there were printed in said office, 3,500 copies of the Medico-Legal Journal for December, 1897, and 3,500 copies for March, 1898: and further saith not.

S. C. FREY.

Sworn and subscribed before me this 23d day of June, 1898.

A. J. BRENNEMAN,
Notary Public.

We point with pleasure and pride to this large increase in our circulation.

NOTICE.

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JOURNALS AND BOOKS.

SEXUAL DISORDERS OF THE MALE AND FEMALE. By Robert W. Taylor, A. M., M. D. Lea Brothers & Co., Philadelphia. (1897.)

That this work will be received by medical men with favor and read with interest and profit is beyond all question. It treats on scientific lines many themes concerning which the medical mind needs education and light. The anatomical side of the work is well done, but it is not the anatomy that lends to the work its greatest interest. The chapters on Impotence both in the male and female are timely and well worth the study of the non-professional. The book, however, has a peculiar interest and value to the professional man. It is full of knowledge and usefulness to the layman. Its chapter on Conjugal Onanism should be widely read. Dr. Taylor has the faculty of investing his subject with a charming style and interest, that adds largely to the merits of the work. If it were properly presented to the public it would have a large sale among others besides physicians. It is a work of great research, admirably written, very well illustrated and entitled to a large demand.

ANOMALIES AND CURIOSITIES OF MEDICINE.—Being an Encyclopedic Collection of Rare and Extraordinary Cases, and of the Most Striking Instances of Abnormality in All Branches of Medicine and Surgery, derived from an Exhaustive research of the Medical Literature from its Origin to the present Day, Abstracted Classified, Annotated, and Indexed. By George M. Gould, A. M., M. D., and Walter L Pyle, A. M., M. D. Imperial Octavo, 968 pages, with 295 Illustrations in the Text, and 12 Half-tone Colored Plates. Philadelphia: W. B Saunders, 925 Walnut Street, 1897. Prices: Cloth, $6 00 net; Half Morocco, $7.00 net. Sold only by Subscription.

This is an ambitious work of nearly 1000 pages showing enormous research and great and persistent labor. Its index of works quoted and consulted occupies 16 pages and the anomalies of which it treats covers an enormous field which is divided in the work under eighteen heads or departments of which a chapter is devoted to each. For libraries of reference the work is invaluable, and a study of it will show that it treats quite extendedly on any known subject embraced within its title, the Anomalies and Curiosities of Medicine.

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FEIGNED DISEASES,—THEIR IMPORTANCE, PURPOSE AND RECOGNITION.

BY J. ADELPHI GOTTLIEB, M. A., M. D., Sc. D., N. Y. CITY.
Examiner in Lunacy, Supreme Court State of New York; Iamatological Chemist; Medico-Legal and Sanitary Expert.

In reviewing and considering the subject of malingering and imposture, I shall only dwell on the medico-scientific and forensic importance as concerns the physician,—why it is done, what he is to recognize and how to do it; for many forms of diseases are so well simulated and complicated and of such nature, as to expose the ignorance or knowledge of the medical practitioner more conspicuously and positively than any other cases of actual illness where the physiological facts are established and the pathological conditions apparent. To the chagrin of many a young physician has this been proven in recent trials, where the medical witness was embarrassed in public on the stand, on being informed that his diagnosis was absolutely incorrect and that he had been grossly imposed upon by the culprit, who confessed all.

Then again, on the decision of the medical practitioner as to the true character of doubtful cases depends the acquittal or punishment of the alleged invalid.

It is a fact of almost daily occurrence of which those of my colleagues who have served as medical officers to re-

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formatories, prisons, asylums, army, navy, insurance companies, or as medical experts, can testify, that this form of criminal deception is more frequent than would be generally imagined, and that the ingenuity of these malingerers is almost incredible, can only be appreciated upon careful study of the criminal cases of the past ten years.

To give this subject the proper consideration in a brief paper is an impossibility. Therefore I will only give a synopsis of the cardinal points as are of importance to the unwary general practitioner, trusting thereby to guard him against mistakes and imposture, and to be an incentive for closer study, observation and research in this important branch of forensic medicine, and which knowledge is a necessity to the medical examiner of insurance companies or benefit organizations in the discharge of his daily duties.

Before scientifically considering the symptomatology and diagnosis of the individual conditions, it will be of no little interest to look into the history and motives of malingering in all times. By careful observation we are soon made aware of the fact that no class or social condition of life is exempt. It matters not whether the malefactor be the lowest creature of barbarism, who mutilates the body by horribly mangling it by crude and dangerous means, in order to avoid some unsatisfactory duty; or whether it be an individual of the highest type of civilization, who feigns disease by simulation, or produces it artificially, according to the extent of his superior education, and for the purpose of claiming damages or extortion. The objects in both instances are identical: that of securing comfort, exemption, immunity, etc. Age, neither, plays any particular part, for we are all aware of the school boy and his tactics, the pretended cramps, odd pains, his inability to walk, and what not, and all to stay away from school; when, lo, his object gained, all ills vanish as if by magic!

Of equal interest is the old, venerable and gray haired citizen, who pleads that on account of a particular affliction (*pretended hæmorrhoids, deafness, etc.*) he is unable to attend to jury duty. Sex also matters not, because we find an equal number of offenders among female as well as males.

Feigning disease is not an acquisition of modern times. The plans adopted by Ulysess to avoid leaving his wife for the war of Troy, and Palamedes placing Telemachas in the furrow of the plough before the father, who betrays his sanity by carefully avoiding the infant, are familiar to the classical reader. Even the bible does not remain silent on malingering, for we read, "David *feigneth* madness at Gath." I Samuel xxi, 13. "And he changed his behavior before them, and *feigned* himself mad in their hands, and scrabbled on the doors of the gate, and let his spittle fall down upon his beard." So we see that deception was practiced by mankind as far back as history itself goes. We now come to the imposture as met with to-day and its detection.

The success of the physician in promptly recognizing the deceptions practiced depends upon the extent of his knowledge of medicine, and his familiarity with the regular symptoms of disease, coupled with the degree of natural cunning which he possesses. Supplemented by the following suggestions, descriptions and classification, it is hoped to aid him to be cautious and on his guard, and not give too much credence to the complaints of pain, etc. Do not take it for granted that because a plausible symptom is mentioned you must forthwith prescribe, without even further questioning. I do not mean that every patient is an imposter, but only wish to impress the necessity for caution. Also avoid the risk of making a too hasty diagnosis, and even if you have cause for suspicion,

remember that there are many cases of real occult maladies, with complicating symptoms; which we might be very apt to wrongfully attribute to imposture.

To enumerate the forms and varieties of afflictions and imposture as met with, would mean to exhaust the catalogue of every disease known to science to which the human being is heir to, and to draw upon the visions of the most imaginary novelist of all ages. They range from simple pretended deafness to actual mutilation; such as placing a limb under a moving locomotive, standing between railway cars, purposely falling over a source of avoidable obstruction, or into an open hatchway, or deliberately maiming the human form by cutting off a finger in automatic machines, or permitting a drill to penetrate the hand, or in any and every conceivable way.

To properly understand the various forms of imposture practiced it is of consequence to know the reasons and motives prompting the malingerer, as such knowledge is of great assistance in unmasking the deception; and the following classification is made with a view of making the recognition easy.

OBJECT OF FEIGNING DISEASE.

I. *Gain.*—This is the most prevalent and powerful motive actuating the malingerer, to obtain damages, extortion, insurance benefits, etc., resorting to all forms of imposture.

II. *To Escape Punishment.*—Pleading insanity for acts committed or attempted.

III. *Fear.*—To disguise nervousness while in a state of excitement, feigning melancholia, exhaustion, prostration, etc.

IV. *To Secure Relief from Certain Duties.*—Discharge from military duty, avoidance of jury duty, shirking disagreeable tasks, etc., all forms of deception.

V. *Laziness.*—To attract sympathy and aid from the benevolent.

VI. *Notoriety.*—Chiefly hysterical women simulate all diseases, or pretend to take poison; attempt at drowning is also a favorite motive to obtain notoriety by imitating an attack of cramps in view of certain individuals at the sea shore.

CLASSIFICATION OF FEIGNED DISEASES.

(*a*) *Fictitious Diseases.*—All such cases of purely *pretended* diseases and symptoms which are absolutely founded on imagination and for which no possible physiological cause or pathological lesion exists.

(*b*) *Factitious Diseases.*—Artificial conditions wholly produced by the patient or by others with his concurrence.

(*c*) *Exaggerated Diseases.*—Such as actually exist in some form or degree, and are *pretended* by the patient to exist in a different form or exaggerated degree.

(*d*) *Aggravated Diseases.*—Such as originally existed in the first instance without the patient's concurrence, and which have been intentionally increased and intensified by artificial means.

GENERAL CONSIDERATIONS AND SUGGESTIONS FOR EXAMINATIONS.

Question the patient in general, at first in reference to his supposed complaint; note the rationality of the symptoms. Note the etiology; inquire exactly as to the onset of the affliction and the duration of initial state, etc. And here invariably some incongruity will be detected to give sufficient cause to further corroborate all suspicion. Speak on general topics, such as inquiry into the patient's surroundings, how genial they are to him; ask as to food, its quality, etc.; his mode of living; occupation, whether satisfactory or too laborious, or preference for any other. If

a little cunning is used on the part of the practitioner, he will soon elicit from the patient many valuable clews. As, for instance, the patient may have a dislike for a certain task, and plots to obtain conession by feigning disease. Or the prospects of a vacation may be the incentive prompting a young Miss, in order to be sent to some favorite country place. Others will complain of certain domestic conditions, and through encouraging such conversation, the purpose might be detected, as desire for divorce, etc.

Attach no importance to the statements of relatives and friends, though cautiously but indirectly question all who may have had occasion to come in contact with the person under examination; possibly ask their opinions on any other matter bearing indirectly on the case; such as remarking what wonderful will power and endurance the patient has, or the contrary, as the case may call for; when, invariably, a number of stories and instances will be volunteered by the ever-ready and talkative ; and not infrequently can valuable points be gleaned, as, "Yes, his brother fell off the ladder while at work and drew a month's pay from the union, and remained two weeks locked up in this dirty cave of a house. They're all strong fellows, but he stood it to get his pay." It will be seen that a "family trick" was unearthed, on the simple remark of endurance. Another method of great value is to make a second call shortly after the first or at a time when the patient would be least apt to surmise another visit. This will often have the effect to astonish both physician and patient; for he who was examined only an hour previous and found in a state of excessive perspiration, severe pain and inability to get out of bed, is up and about with the agility only enjoyed as a luxury in extraordinary good health!!! Then again, certain forms of fear might be aroused, and thus

have the effect of causing the culprit to confess, as the following novel and interesting case illustrates:

Recently I was called to one of the reformatories to which I am the consulting physician, to see a "puzzling case." On my arrival at the institution I found the patient in bed, and of a general appearance indicating rather good health than any form of illness, and was informed that "Mary ——, aged 19, was taken ill a week ago with sharp pains in her chest and positively unable to sit up, had to be lifted bodily in order to make the bed; fever at various times during the day or night ranging from 98° to 101° F." Otherwise nurse had noticed nothing abnormal; but the patient claimed to have had hæmorrhages from the umbilicus; but at no time could this fact be verified by the closest examination of the abdomen, as no trace of blood could be found, not even the slightest scratch or eruption. Inquiry as to her character and general behavior elicited the fact that she was "an allaround liar." On reviewing the fact and examining the patient, nothing abnormal was detected, except that she was shy on the question of menstruation, remarking that "it was always little or every two months." As her bowels were costive (cause of fever and pain, which was exaggerated) and ascertaining that castor oil was very disagreeable to her, I forthwith prescribed a very unpalatable dose to be given until the bowels moved. This had the effect of reducing all febrile symptoms to normal, but the pretended inability to get up out of bed and visionary hæmorrhage still existed, though the appetite had markedly increased. Being acquainted with these kinds of excuses from the inmates, as a possible way of avoiding the work and discipline of the institution, I directed that, as she could not get out of bed, it would be injurious to her supposed pain to continue the regular meals which she has had heretofore, and ordered a

wineglass of malted milk (*under the guise that it was medicine*) to be given every half hour, until she was able to get out of bed and exercise, so as to be able to digest a proper meal; nothing else being allowed but water ad libitum. The *medicine* (!) had such good effect that within 24 hours she thought she was able to go to the general dining room and take the regular meals. But the hæmorrhage story persisted, and this had to be cured also; as this was still her plausible excuse to avoid work and enjoy the rest and convenience of the hospital. Taking the patient unawares, on my next call to the hospital, I ordered the nurse to prepare her for "operation," at the same time remarking, within her hearing, that I was going to open her abdomen, (*though I only wished to make an examination*). This severely frightened her, and had the charming effect of gaining her confidence, confessing she has never had the hæmorrhages claimed, and acknowledging my accusation that she is pregnant; remarking that as she has had cause to believe so, four weeks previous to being admitted to the institution, she thought she would have the house physician give her medicine for the supposed complaint, thinking it would "work on her trouble." While only a woman of the ordinary low class, she exhibited the cunning which would be attributed only to one of higher education. And right here let me take occasion to utter a word of warning to my fellow practitioners, that this form of deception is of common occurrence in the daily routine of the general practitioner. Women will call at the doctor's office, and complain of "pain in the back, bearing down and dyspepsia, (disguising the nausea of pregnancy), and too little courses," and in all confidence assure the medical attendant that "it was caused by catching cold," trusting thereby to have the physician prescribe the various emmenagogues, making sure that they should be effica-

cious by saying that "she has always had to take mustard foot baths and strong medicine to bring on her monthlies," thus throwing the doctor completely off his guard, beguiling the busy physician into prescribing without even thinking of ascertaining the condition of the uterine organs; the consequence is, the patient uses the medicine prescribed, has it refilled for herself and friends, takes it in doses to suit herself and object, thus making him *particeps criminis* by his own carelessness. While I do not wish to be understood that every case is to be regarded with suspicion, I have found forty per cent. must be, particularly where the doctor has many transient patients, as is the case with physicians practicing in large cities.

The above instances beautifully illustrate what can be done by questioning and by improvising various simple though unexpected tests, to suit the exigencies of the occasion; and that we are at all times subject to being imposed upon; and by not being cautious, aid the malefactor in the successful execution of his deception and fraud, by relying upon his statements, and taking them for face value without strict examination.

As the time and space for the proper continuation of this subject is limited, I therefore conclude this quasi introductory, and will take up the special study in my next paper, treating on the various individual diseases and afflictions, their form and mode of deception and detection; special diagnosis and illustrative cases. The diseases most frequently simulated will receive special consideration, and will include deafness, epilepsy, amaurosis, convulsions, hydrophobia, fevers and chill, mental derangements, uterine derangements, color blindness, and the various medical, surgical and pathological conditions intentionally produced.

THE X-RAY IN FORENSIC MEDICINE.

BY FRANK WARD ROSS, A. M., M. D., PH. D., ELMIRA, N. Y.
ACTING ASSISTANT SURGEON U. S. A.

My personal experience and observation, from which I have evolved the subject matter of this brief paper, convinces me that the X-ray in forensic medicine is not necessarily a bed of roses. There are many pitfalls and unpleasant experiences, which must be considered and met.

If I can make the way clearer to avoid these dangers, and add to the safeguards and methods to be employed, by those of this distinguished body who may use the X-ray in cases when required to appear in court, and assist them in any way to make their efforts competent, and their evidence safe, I shall have accomplished my mission.

Knowing that it had come to my lot to have a little personal experience in a number of forensic cases, your distinguished Chairman, the Hon. Clark Bell, requested this paper.

I shall be brief and practical. I shall begin by giving hints regarding X-ray photographs in cases where these are to be exhibited in court and used as evidence.

The greatest care is required to make the skiagraph competent evidence, and the absolute necessity of using the healthy side in comparison, taking the same exposure from every standpoint, as to time exposed, light and position, must be rigidly adhered to.

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Read before the American Association of Physicians and Surgeons, June, 1898, at Chicago.

Means for identification of the photographs, and care in producing positive assurance of the court that they are *the* exact pictures, and have in no way been changed, are absolute requisites.

Supplimentary evidence, in the shape of examination by the fluoroscope as well, as the pictures must be presented and defended on cross examination. Extreme caution is necessary in eliminating sources of error, in the shape of natural or acquired deformities. Caution as to having absolutely *no motion* of the subject on the plate is best obtained by strapping the patient down, or fastening the part to the plate, so that no exagerated or distorted photograph can result.

Caution is advisable as to allowing the photographer to exhibit or allow the plate, proof, or picture in question to go into any other hands, either from curiosity or from design; also as to reversing the picture or not, by various methods, depending on whether the picture is taken on a plate and printed, or on a paper which is developed as a picture.

Surround the picture with every safeguard to make it competent evidence, not alone to your own mind, but to the court, as courts and judges are sometimes skeptical.

We have never been permitted to place a picture in evidence in this city in a criminal trial, the presiding judge, on one occasion, excluding it on the ground that the picture was not an exact representation, and cannot be verified; also that the methods used are not sufficiently established, and the legal status yet under dispute; although I have been allowed to testify in one case as to my examination by the fluoroscope, as additional and supplementary evidence, to a physical examination by me. I especially caution those using the X-ray to take unusual care in giving an opinion of a case without the consent

and knowledge of the attending physician, particularly where a suit for malpractice is likely to ensue, or is in the possibilities.

The same precautions should be observed in taking pictures to be used in cases in which suits for damages have been brought against a corporation; or in the so-called "negligence cases," which we so frequently meet; and I always insist on having the consent, and if possible, the actual presence of the attending surgeon, at the time the picture is taken.

If the question of age or non-union of bone presents, the following points should be considered:

It is well known that adult bones can be readily distinguished from those of children, or where the bones are not fully ossified. Do not mistake an incompletely ossified bone for a fracture, or vice versa.

A picture which I have seen, taken from a mummy, in which there was a doubt as to whether the hand was adult and human or not, and was supposed to have been an Egyptian prince, (all mummies are), the hand was clearly that of a child, showing the bones not fully ossified.

A case in France was decided against a corporation, on the evidence of a skiagraph, which showed the bones had not been united, although there was no other evidence than the picture.

This was incorrect, as we know that bony union in fractures takes, in some cases, months or years to unite,—some never completely ossify. This must always be considered. Here the decision was in error, as there were no physical signs of fracture existing. Hence we should never accept, as an assured fact, that we have an ununited fracture or deformity, when other evidences are wanting or are even negative; especially if the patient's subjective symptoms are liable to be biased with the prospect of in-

demnity. In estimating the amount of the damage done, not only must we always compare the injured with the sound side, but remember that some deformities, like those of the wrist-joints, may be quite extensive, and yet perfect co-adaptation of the bony parts have been made,—with perfect union of bone,—yet deformity exists, (particularly true in Colles fracture).

Again, our failure to see the cause of the deformity, in the X-ray, is not evidence that it does not exist, if other symptoms point to its being present. (The contrary line of reasoning in the French case cited).

The reason for this is obvious; the traumata of the soft tissues are often, (particularly in the fractures at the wrists), of greater importance than fractures of the bones.

The X-ray has caused us to look at bones and joints from a very different standpoint than formerly. We must, as competent witnesses, be well versed in the conditions existing, the surgical anatomy of the part, and land marks, aside from and independent of the additional evidence given by the X-ray.

Fractures and deformities may exist which, from the position, line of fracture, effusion of blood, or character of deformity, will not furnish evidence in a skiagraph or fluoroscope.

Again, failure to get an X-ray, or to get a fluoroscopic view, will, in some cases, occur from faulty manipulations: machinery being out of order, insufficient power, or adverse atmospheric conditions.

Hence failure may occur at one time and success at another.

In one instance where I examined a case for a police surgeon, of gun shot wound, of a prisoner who was supposed to have been shot in the forearm, by an officer of a neighboring city, who escaped the authorities. The man

claimed that he was intoxicated at the time of the shooting, and set up also as a defense that the ball was still in his arm.

I was able to demonstrate, clearly and conclusively, before our local and foreign officers, that *no* bullet was in his arm, as the entire arm and forearm were perfectly transparent to the fluoroscope. The ball had been removed, but for reasons best known to the prisoner he refused to reveal when and where, even when told that we were about to operate and find the ball, supposing that he would weaken in case it was attempted and the ball had already been removed.

Our evidence may, therefore, be of either "to find or not to find" foreign bodies, etc., positive or negative in character, (particularly true in accident insurance cases.)

Counter tests with metals, readily showing in the above, the absolute non-existence of the ball. In this case, it was ascertained subsequently, that it had been removed by a surgeon.

We may be materially assisted in our search for the exact location of foreign bodies, or injuries, by the Dennis Fluorometer, which ingenious device gives the exact location for present or future reference.

It is essential in all cases where tissues, other than the arms and legs, are to be examined, particularly in the trunk and the head for bullets, that photographic and fluoroscopic observations should be taken from two or more points of view, at right angles to each other. This is materially aided by the little device mentioned.

While the use of the X-ray is of inestimable value to us in making diagnoses, it is not an unmixed personal good, as we well know from actual experience.

If it increases our diagnostic ability, it also increases our responsibilities, and we are more exposed to suits for

malpractice in fractures, particularly if deforminity exists, and we have not used it as a means of diagnosis, also in dressing and examination after reduction. I use it in all cases of fracture after splints and bandages are adjusted. Negligence will be claimed for failure to use it in all cases where bad results follow. If we have used this means we are strongly fortified.

Again, the so-called X-ray burn is no small factor, not only in the minds of the laity, but also of the court, and is an actual source of danger, and must always be considered, guarded against, and avoided by proper precaucautions, by suitable apparatus, not too long exposure, with perfect insulation of the patient, and if necessary, an aluminium or celluloid screen.

I have never seen an X-ray burn where a static machine was used, and believe its dangers to be over-estimated; yet it is a factor which we must not ignore. I have made on my own person and on others perhaps 2000 exposures, and have not seen a burn of my own making, time being from two minutes to three hours exposure.

Neither can we ignore the possible harm which might result in using it in cases of open wounds or injuries to the brain.

In a case in which I used this method, (the resulting skiagraph was taken after the man's death; three weeks later), the use of the X-ray was used as a defense, on the ground that it seriously jeopardized the man's chances, and that with the use of ether anasthesia, to keep him quiet, was not only seriously condemned by the defense, but the danger was so portrayed, that with the rulings of the court and other circumstances attending the case, the prisoner was acquitted on the charge of a deliberate murder, and our use of the X-ray was a great factor in bringing about this verdict. (I shall have a detailed account of this case

at the next meeting of the American Electro-Therapeutical Association, to be held in Buffalo in September next.)

My greatest consolation, in this case, was that the same argument would have been used had I failed to use the X-ray to locate the bullet. Had the case died, then the omission would have been claimed as neglect.

As it was, it was argued that it was a source of extreme danger to the patient, jeopardizing his chances and leaving a "reasonable doubt" in the minds of the jury, as to whether he might not have recovered had the X-ray not been used. In spite of positive demonstration that no harm resulted from the X-ray or ether,—the man living three weeks after the exposure, and dying of meningitis, which existed at the time the examination was made and was due to the presence of a bullet in the brain.

We must, however, not be hampered by prejudice or fear of evil to ourselves, still we must exercise caution, and precaution under all circumstances, particularly in murder trials, criminal and negligence cases of all classes.

What we consider our duty to the case in hand, should be done fearlessly, or there can be no progress in our art, time and science will vindicate us in the end.

Courts and juries deal with tangible things, and evidences which may sway juries may be due to ignorance, bias, or prejudice. We are thus made partly or wholly responsible, allowing the innocent to be punished or the guilty to escape!

Evidences which to our trained surgical senses or deductive logic may be sufficient for us to use as a guide for treatment which holds a human life, may count for naught in a court of law, and our efforts to save life; and best intentions are often looked upon with suspicion by the court and jury. Especially is this true in regard to new discoveries, which are viewed rather in the light of experiments.

Those things which are the best of evidence for us as surgeons, may be the poorest in the world in a legal aspect.

Of this fact we must never lose sight for a moment, and so shape our examinations in this line as to make them conform to the rules of legal evidence in all its technicalities, or our work may not only be productive of no good, but may be an actual source of menace to us personally and professionally.

Careful attention to the points mentioned as to surrounding the case with safeguards, will insure you good results in your own cases and make your testimony in courts competent and material evidence.

While the points made in the above will not cover perhaps all conditions which may arise in every case, I am satisfied that the salient factors have been stated.

A CASE OF RUPTURED AORTIC ANEURISM; SUIT FOR ACCIDENT INSURANCE.

BY J. N. HALL, M. D., DENVER, COLORADO.,

Professor of Medicine in Gross Medical College; Visiting Physician to the Arapahoe County Hospital and to St. Anthony's Hospital.

In the case we are to study, suit was brought against an Accident Insurance Company in behalf of the widow of the deceased, on the ground that the death of the insured was of accidental origin.

The insured was sixty-two years of age, and had been treated for asthma in another state at intervals, as shown by the evidence, for some years. About six weeks after taking out the accident policy in question, he awakened his wife, in an adjoining room, by calling to her. She found him practically dead upon the floor, by his bed. A small and superficial abrasion was found upon the right side of the nose, and another over the left eye. It was stated by the family that he had probably arisen in the early morning to close the window of his room, as was his habit, and it was supposed by them that he had fallen over a rocking-chair, bruising his face as stated. The claim made was that the death resulted from the shock of the fall, the patient being little able to bear shock, because of his age. The death certificate was made out in accordance with this theory. The body, being shipped away for interment, was examined by seven physicians, represent-

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ing the family of the insured and the company, upon the representation, by the agent of the Company, that the policy would not be paid until it was proven that the death resulted from accident.

The autopsy showed that the body was emaciated, with flabby muscles. The brain was normal, and no appreciable injuries excepting to the skin had resulted from the bruises upon the face. In the right pleural cavity were found ten ounces of clotted blood which had evidently entered that cavity from a rent in the wall of a sacculated aneurism of the arch of the aorta, stated by the different witnesses to be from two by five inches in dimensions to four by five inches. The aneurism was largely filled with thrombotic deposit. It had eroded a hole which admitted the forefinger through the center of the breastbone. The other organs were practically normal.

The prosecution, which was conducted with great care and expenditure of time, set forth that the insured had been in the act of returning to his bed after partially closing the window, when, falling over a rocking-chair, he had injured his head, and died as a result of the shock. There was no direct proof of such a fall over the chair.

It was attempted to prove by medical testimony, as well as by the evidence of an undertaker who had embalmed the body, that the aneurism had been ruptured by the embalmer after the vascular system had been entirely filled with fluid, the statement being made that the embalming could not have been done if the aneurism had been ruptured beforehand. It was further claimed that the aneurism was cured, the thrombotic deposits being spoken of as evidence of such cure. Assuming all these things to be so, there might reasonably be a valid claim for the accident insurance.

My own examination by the attorney for the defendant

company was so searching and minute that it required, with the yet longer cross-examination, two-and-one-half days. Most convincing confirmatory expert evidence was given by Dr. L. E. Lemen, of Denver, Colo.

Especial stress was placed by the defense upon the rarity of cure in aortic aneurism of any considerable size, and upon its tendency toward an almost inevitably fatal termination.

The hydrostatic conditions of the circulation, with especial reference to aneurism, were illustrated by suitable apparatus, that the jury might understand that the rupture which caused death was exactly what was to be anticipated in such a case.

To a medical man the case seems extraordinarily simple, and yet it occupied eleven days of the Court's time. The jury promptly rendered a verdict for the defendant company.

To one familiar with the course of aortic aneurisms, the audacity of the claim that cure had occurred in one which had eroded through the sternum and had finally burst into the pleura through a long rent, is really startling. Before a jury of physicians the case would have been too plain for discussion, but the testimony, expert and otherwise, offered by the prosecution, made a very plausible case of it to a layman.

Mr. Milton Smith, of Denver, attorney for the defendant company, has kindly furnished me the following statement with reference to the legal aspects of the case:

"In this case, the deceased made application for a policy of accident insurance on the 9th day of November, 1895. In said application he stated that his health was not impaired, and that he had no disease or bodily infirmity; that he had never been refused accident insurance, nor had any

policy held by him, been cancelled for any reason. The policy was issued. It was an *accident* policy.

"It provided that in case of death, the widow should be paid $5,000, provided the death was caused solely from bodily injuries sustained through external, violent and accidental means, independently of all other causes. Upon the back of the policy were conditions to the effect that in case death was caused directly or indirectly, wholly or in part by diseases or bodily infirmity, or if death occurred *while* the deceased was *affected* with disease or bodily infirmity, there could be no recovery.

"The deceased, on the night of the 11th day of December, 1895, retired in his usual spirits. There was a lighted lamp in his room all night. About 4 o'clock in the morning, his wife was awakened by his cry. She rushed to his side and found him lying upon his face, hands by his side, his body limp, with a slight bruise on the bridge and ala of nose and over right frontal region. A surgeon was summoned, but before he arrived, life had left the body. After the body had been embalmed, it was shipped east for burial. In one of the larger eastern cities, an autopsy was performed upon the body. There was disclosed an aneurism of the arch of the aorta, which was ruptured. This condition explained the cause of death. The widow presented a claim for insurance. The Company declined to pay, on the ground that the contract was a contract of indemnity against death from *accident*, and not a contract against death simply. Suit was brought, and by the pleadings, the following issues were made: That at the time of the making of the application for insurance, the deceased was in poor bodily health and suffering from an aneurism of the arch of the aorta; that a policy held by him in another company had been cancelled, and therefore, there was a breach of warranty which rendered the policy

void; that death was not caused by accident, but was a direct result of a rupture of the aneurism; that even though he had sustained an accident, under the terms of the policy, his death was caused indirectly and partly, if not directly and wholly, by disease and bodily infirmity, and that he had died while affected with a disease. Upon these issues the case went to trial.

"Experts testified that the aneurism was of long growth, and had been present in the body for some years; that had he been in sound health, such a fall as he sustained, (if he sustained a fall at all), of the severity claimed by the plaintiff, would not have produced death, had he not been suffering from an aneurism, and that the aneurism contributed and partly caused death, if it did not wholly and directly do so; that death occurred while deceased was affected with a disease, to wit: the aneurism. Questions were raised as to the admissibility of certain evidence offered by the defendant company as to treatment of the deceased by an eastern physician for asthma and skin and other troubles, and as to his condition shortly before the making of his application for insurance. There was thus raised an important question upon the admissibility of evidence, but the court held that evidence, so far as it was descriptive of his condition, was admissible in view of the fact that one of the issues raised, was the condition of the deceased at the time of making the application. The evidence of the secretary of another accident company was to the effect that deceased had stated a few months before his death, that he was 5 feet 9½ inches tall, his weight was 120 pounds. This showed an emaciated condition of the body.

"The question was presented whether or not the plaintiff, when she had shown the position in which the deceased was found, with bruises upon his face, had made a prima

facie case of death resulting from accident, and whether or not, in view of the contract, the plaintiff was obliged to show that death resulted from an accident independently of all other causes. The court held that the burden of proof was upon the plaintiff in the first instance to show the accident by direct evidence, and not by any admissions on the part of the defendant company, made during the negotiations for settlement, or by the company's physicians, who examined the body after death, and before autopsy; that testimony to the effect that on retiring, the evening before the accident, the deceased was in his usual health, was sufficient to show prima facie that he was in good health and presumptively the death occurred from an accident independently of all other causes, and that, therefore, the burden was shifted to the defendant to show and prove that death was not due to an accident, but was caused by disease. The defendant took the advanced ground that *even though* the deceased *had sustained an accident*, under the terms of the contract, plaintiff could not recover, because death occurred while deceased *was* affected by disease, to wit: an aneurism. The court did not submit that question to the jury, and thereby eliminated it from the case. The court did submit to the jury another question raised by the defendant, viz.; that if the death was caused directly or partly by disease, or was contributed to by the aneurism, then there could be no recovery under the conditions of the policy; and the court further submitted to the jury the question whether the deceased was in a diseased condition at the time the application was made.

"Counsel for the plaintiff, Mr. H. J. Hersey, of Denver, Colo., seriously contended that the aneurism had practically healed, and that at the time of death of deceased, he was in a healthy condition; that the presence of thrombi in

the aneurism in the quantity found, was proof that the aneurism had healed. He attempted to explain the rupture of the aneurism by showing that it was caused by the embalmer. He showed by witnesses that the embalming process continued over sixty hours; that the fluid first injected into the body, circulated through the whole venous and arterial system, as was evidenced by the appearance of the veins on the face and extremities, and by the presence of the embalming fluid upon an incision of the great toe being made; that it was customary for embalmers, when about finishing their work, to apply greater pressure and inject more fluid than they did early in the work, and that in this case, at the end of sixty hours after injecting the first fluid, greater pressure was applied and a greater quantity of fluid injected. The fluid under that pressure, it was claimed, ruptured the aneurism and caused the right pleural cavity to contain clotted blood. Counsel for defendant contended that the circulatory system might be filled with embalming fluid, even though there had been a rupture of the aneurism; that the blood had plenty of time to clot at the point of rupture, and probably did so, and did more readily clot when it left its habitat, and that this clot may not have been pressed away from the point of rupture in the aneurism until the last pressure was applied; that blood coagulated soon after death, and if disturbed thereafter by being forced through a small opening, the clots would be found in particles, and not in one mass, and a firm clot of blood weighing from 8 to 10 ounces in the right pleural cavity in one mass, was evidence that the clots did not pass into the right pleural cavity after the embalming process had taken place, as then the clots would be in small particles and not in one mass, and that thereby the theory advanced by the plaintiff, that the rupture had occurred long after death, was of itself ruptured.

All these questions were submitted to the jury, which promptly found a verdict for the defendant.

"The case is notable for the reason that the court submitted the issues to the jury upon the contract as made, and did not attempt to abrogate any of the provisions of the policy—in other words, the jury were instructed that the parties had made their contract, and that the plaintiff, before a recovery could be had, must bring herself within the provisions of the contract. The court took a step in the right direction against the modern tendency of courts to hold that insurance companies and the insured, make conditions in their contracts simply to be ignored or construed meaningless by the courts. The court held that insurance contracts were to be construed like any other contract; that when the minds of the parties met, as evidenced by the policy, the intention of the parties must be found in the instrument, and both parties are bound by it."

IMMORALITY ON THE JUDICIAL BENCH.

T. CRISP POOLE, ESQ., BARRISTER-AT-LAW,
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The writer of the following remarks has long felt that the matter of which they treat is one that should be brought before the serious notice of rulers and of the legal profession; and considers that the Medico-Legal Journal would be a good medium for the ventilation of the subject. They are written in consequence of the melancholy fact that men of notoriously immoral lives have been permitted, in certain places, to occupy high positions on the judicial bench.

It only needs very little reflection to see the incongruities and dangers which may and do arise when such a state of affairs is tolerated. A man who has the power of sending another to prison, if not of stainless life himself, is not very likely to be able to apportion the right amount of punishment to the delinquents who are convicted before him; and will very likely be too lenient to vices with which he is himself in sympathy, while to compensate for this he will be very severe on persons convicted of crimes of another character. In illustration of this the writer may mention the case of a judge reputed to be exceedingly immoral, who dealt very lightly with a man who was brought before him on a charge of bigamy and who, at the same session of the court, sentenced a man convicted of larceny (it is admitted that he was an old offender) to penal

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servitude for twelve years. This judge had a great deal to say, while passing the latter sentence, about the duty that he owed to the public; apparently unconscious that one of the duties of his high position was to set such an example in all things that public confidence in his fitness for the office should not be shaken; nor vice encouraged by the spectacle of its being made light of by men appointed for the preservation of virtue. Such things are of far greater import than protecting the public from the depredations of a thief; albeit one whose past record shows him to be one who would put liberty to a bad use.

But it is not only in the direction of the administration of criminal law that the evils are apparent of allowing the immoral man to sit in the judicial chair. Many are the causes brought before our civil courts, which turn more or less on the immorality of one of the parties concerned, and where the law cannot be laid down, nor justice administered, without the presiding judge, if immoral himself, reprehending conduct from the bench as the like of which he is himself guilty. A certain judge, now dead, is reported to have separated from his wife and to have lived in open adultery with the wife of another man. Is such a man the right person to adjudicate on a case where a dissolution of marriage is sought for on the ground of adultery of one of the parties; and would the aggrieved party have confidence that the case will be impartially heard, when the presiding judge is a man who might himself be made a defendant in a similar action? Nor is this the whole extent of the evil; for unless immoral men are precluded from occupying seats on the bench, the possibility will arise (though, it is to be hoped, not the probability) of the whole of the judicial staff of a certain state being composed of men of this character, so that the would-be suitor cannot

even secure that his cause shall be brought before a judge who is right-minded in his principles and conduct.

"*Ex turpi causa non oritur actio.*" Such is a maxim of the common law of England. But the immoral judge is in an invidious position when this maxim is pertinent; and he must either (assuming that he is not wilfully corrupt) be swayed and biased by his private sympathies; or in the administration of the law he must lay down principles of conduct at startling variance with his own actions; in other words, he must preach one thing while he practices another. Nor must the effect on the minds of the public be lost sight of when judges from their high position are heard to utter maxims including purity of life, when it is well known all the while that there is no greater violator of the principles thus preached than the judge who utters them. Nor, on the other hand, is the case made better if a sense of the inconsistency should stay the judge from enunciating those rules of virtue which it is the policy of the law to uphold no less than the interests of morality to guard. We should see the incongruity of allowing a thief to preside at the trial of a man charged with larceny; is it less inharmonious to see an adulterer trying a case of which the essence is the adultery of one of the parties?

Another, though minor consideration which arises in connection with the question, is the embarrassment which may be occasioned to advocates in pleading causes of a certain character before men of immoral lives. It is sometimes necessary for the advocate to reprehend in the strongest terms the conduct of some of the parties concerned in a case; and when the case turns upon infidelity in conjugal relations or deviations from virtue of a like nature, the advocate under the supposed circumstances may be painfully aware that in condemning the conduct

of the parties he is condemning that of the judge who is hearing the case. It is to be hoped that there are not many members of the bar who would allow considerations of personal interest to interfere with the discharge of their solemn obligation to say all for their client that may reasonably be expected to aid his cause. Yet is it fair to the advocate that he should be exposed to the risk of offending by his plain speaking a man upon whose good will so much of his prospects in life may depend? He will need great boldness, sometimes, should he dare to rebuke laxity of morals at a tribunal where to utter such words would engender a consciousness that the presiding judge may construe them as an indirect reflection on the known facts of the judge's own life.

In other professions purity of morals is taken into consideration when deciding upon a man's fitness for an office of trust. To say nothing of the office of a clergyman, which is directly concerned with leading men to the contemplation of holy things, there are secular callings where the incongruity would be palpable of having the position filled by a man of loose life. A schoolmaster might have all the genius of Dr. Arnold for organization, discipline, and instruction; yet let him be without the high Christian principles of that great teacher, and never would he leave behind him a like example, or exercise so beneficent an influence over the pupils committed to his charge; and were he a man of known immorality, there are few parents who would be willing to trust their children to his care. An immoral professor of medicine would be shunned by the respectable part of the community, no matter how great his professional skill, and be regarded as an improper man to perform some of those delicate operations which it is at times necessary for the respectable practitioner to undertake. Is the office of administering justice less sacred than

those of training the young or of ministering to the wants of the sick, and can we better afford to disregard moral fitness for occupying the seat of judgment than when we are concerned with education or healing?

Christianity is said, in England, to be part of the law of the land; and although there is now no established church in the United States of America, in Ireland, or in the British colonies, we have nevertheless not so far lost faith in the superhuman origin of a certain record but that we still ask our judges, our jurymen, and our witnesses to swear by that record to discharge their duties to the best of their conscientous ability. Upon the volume which declares the Divine prohibition to be "Thou shalt not commit adultery" the adulterous judge invokes the aid of the Deity in the discharge of duties invoking possibly the condemnation of adultery. If such a state of things does not prejudice the administration of justice, it is at least no incentive towards the preservation of morals; and it will be an honorable distinction to the state which declares, (it may be that such are already existing) that unsullied purity of life shall be no less requisite to a seat on the judicial bench than educational ability to discharge the duties of the office.

TOXICOLOGICAL.

MEDICAL EVIDENCE IN CRIMINAL CASES.

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The number of Criminal trials in which there is a conflict of medical evidence is so great as to become a scandal to the profession. A close analysis would perhaps somewhat reduce the amount of the discrepancy, but it seems worth while to examine the causes and to deduce some practical results from this examination. This conflict, I may remark at the outset, is by no means confined to criminal cases. It is almost as frequently met with in actions for personal injuries caused by accident or negligence. In a recent case which attained some celebrity in Dublin, the doctors could not agree as to whether the patient (who recovered) had or had not been suffering from small-pox. But the greater importance of criminal trials—especially trials for murder—has directed public attention chiefly to the conflicts which take place in them. Poisoning is perhaps the most frequent example.

First, then, a doctor's *opinion* is admitted as evidence. This sometimes occurs with other witnesses, but it is not usual. Now, when opinions are admitted as evidence, every one knows the great confidence which some persons entertain in the correctness of their opinions—theological, philosophical or political no less than medical. Nor is this great confidence confined to matters of theory. We

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know numbers of persons who entertain it also as regards questions of fact. But it is not those who are most confident of the correctness of their opinions on all subjects, or even on certain special subjects, whose views are in reality the most trustworthy. Doctors are as liable to be self-opinionated as other men, and a single self-opinionated doctor may hang the prisoner at a trial for murder. Such a doctor sees no difference between "I am certain" and "It is certain." A man who is more modest in the expression of his sentiments will usually prove a much safer guide.

There is, however, a special reason why doctors form opinions on somewhat slender grounds and act upon them confidently. The patient is very ill. His disease is obscure, but something must be done at once. If the doctor waits until he feels certain in a case of real obscurity, the patient will probably lose his chance of recovery. The Doctor must make the best guess that he can and act upon it. That the ablest physicians have sometimes mistaken the nature of an obscure disease and treated the patient wrongly in consequence, will, I believe, be admitted by all; yet the same doctor may be compelled soon afterwards to form an opinion in another case on equally unsatisfactory grounds. Of course, in trying to diagnose the disease, he obtains all the information that he can, from the patient and those around him; but he knows that his informants are likely to overlook some things and to exaggerate others, and that perhaps some of them are unobservant while others are prone to exaggeration. In working out his theory, therefore, he often rejects a part of what he has been told and assumes something that he has not been told. It is easy to see how such a habit as this may interfere with the formation of an opinion that ought to be relied on at a criminal trial in a court of justice. The doctor, if one of the attendant physicians, is influenced by what has

been personally told him, although this may not be repeated in the evidence at the trial, or may have been barred or even contradicted at it. He rejects what he had previously rejected, though sworn to, with perhaps new circumstances of corroboration, and he interpolates what he had previously interpolated, though the evidence tends to disprove it. Nor is the case very different when an expert is called as a witness, either for the prosecution or for the defence. He would not be called by either side unless the import of his evidence was known beforehand. He has formed his opinion before the trial, on statements then made to him, which may differ materially from what is given in eivdence at the trial. But probably he has not attended to everything that was sworn at the trial, or even if he did so, the evidence has not been completed when he is examined. It is not easy to change a man's opinion when once formed, and a doctor who was brought as an expert to prove the case for the prosecution or for the defence has probably never changed sides and given an opposite opinion in consequence of the evidence to which he listened at the trial.

The most complete want of experience in the particular kind of case to which the trial relates is no bar to the attendant physician's giving his opinion on oath as to the cause of death. He can say that he has formed his opinion from reading, not experience; yet the books which he read cannot be given in evidence, and it is doubtful whether proof that he has misunderstood these books would be admissible. But I now pass to another consideration of great moment, in a case of alleged poisoning or others of a similar kind.

If it occurs, or is suggested to the attendant physician, that the patient is being poisoned, he naturally asks, who could be administering the poison, and why? And in an-

swer to this he is told that a certain person, probably an inmate of the house, has a motive for poisoning the patient, and is in possession of poison. These are statements which would naturally influence the mind of the doctor, though not made on oath, and possibly exaggerated or erroneous. Perhaps, he would think, this person is poisoning the patient. He thinks I must watch the case closely, and note whether there are any symptoms indicative of poisoning. All this is fair and reasonable at the time, but what becomes of it when the doctor is afterwards giving evidence in a court of justice? The judge and jury assume that his opinion is based on purely medical grounds, or else on sworn evidence. When evidence of motive, of possession of poison, etc., is given, they consequently look upon it as corroborating the doctor, and this supposed corroboration perhaps leads them to adopt one of the conflicting medical views rather than the other. But this evidence is in reality no corroboration of the doctor's opinion at all. It is in fact a part of his *data*. Nay, perhaps, his actual *data* went far beyond what his informants were prepared to swear to in court, and the supposed corroboration of his opinion really weakens the grounds on which that opinion was formed instead of strengthening them.

These remarks will be best illustrated by a case which has created an unprecedented amount of interest, both in England and America, that of Mrs. Maybrick. She was tried for murder and for murder only, and for any other crime (if she committed it) she has never had even the semblance of a fair trial or a fair sentence. The main question at issue was, Did her husband die of arsenic? If the jury came to the conclusion that he did not, or even that the question was open to reasonable doubt, she was entitled to an acquittal. And it was on this vital question that the conflict of medical evidence arose. The doctors

who gave an opinion that he died of arsenic were three in number, Dr. Humphreys, Dr. Carter and Dr. Stevenson. The first-named was a local practitioner, residing at Garston, a suburb of Liverpool, who attended Mr. Maybrick throughout what the crown treated as his fatal illness, though, in fact, he had been ailing for months before, and with symptoms not wholly dissimilar. Indeed, when laying the case before the magistrates, the crown contended that the poisoning had commenced at least a fortnight before Dr. Humphreys was called in, but this theory was abandoned at the trial. This fact is sufficient to prove that there was no sudden development of symptoms differing in kind from those which Mr. Maybrick had previously experienced. Dr. Humphreys had never attended him before, nor had he ever attended a fatal case—indeed, it would seem any case—of arsenical poisoning. His opinions as to the symptoms of arsenical poisoning were derived from reading, and there seems to be little doubt that he misinterpreted what he read as regards one of the *post mortem* appearances *petechiæ*. His experience, no doubt. cuts both ways. While it detracts from the value of the opinion which he ultimately formed as to the cause of illness and death, it explains why he might have failed to detect the arsenical poisoning, which (according to the crown) was going on for ten days under his eyes without any suspicion on his part. He does not appear to have been very confident in his own opinion, and whether he based it on purely medical grounds does not appear, as he wrote no article on the subject. But it is certain that he did not form this opinion until after Mr. Michael Maybrick had charged his sister-in-law with poisoning her husband, and also until after he had consulted with Dr. Carter, a practitioner of much greater note, who, moreever, appears to have had great confidence in his own opin-

ions. That Dr. Humphreys should have been influenced to a considerable extent by the views of his colleague was natural. What opinion he would have formed if he had been the sole medical attendant throughout may, I think, be doubted.

Dr. Humphreys had been in attendance since April 28th, 1889. The patient went on very well until May 3rd, having been able to return to his office and transact his usual business there. But on the 3rd of May there was a relapse and on the following day there was much vomiting (he seems to have vomited but twice on the 3rd until Dr. Humphreys left him after midnight) and though he seemed a little improved on the 5th, Dr. Humphreys then suggested calling in a second doctor. Mrs. Maybrick declined to do so at the time, but did so on the 7th, when it would seem that Dr. Humphreys did not think it necessary, as the patient had again improved during the interval. On the 7th, accordingly, Dr. Carter met Dr. Humphreys in consultation. Dr. Carter was afterwards of opinion (in which Dr. Stevenson appears to have concurred) that a fatal dose of arsenic had been administered to the patient on the 3rd of May. Yet when the two doctors met on the 7th, not only had they no suspicion of arsenical poisoning, or of any kind of poisoning (save improper food or drink), but they formed a hopeful prognosis and were both confident that the patient would recover in a few days. That two doctors in consultation should have formed such an opinion four days after the administration of a fatal dose of arsenic—of which the patient died in another four days—shows at least the fallibility of medical opinions. But this was the case for the Crown.

Dr. Carter gave, in his evidence, some indications of the grounds on which he formed his opinion, but these are much more fully exhibited in the medical articles that he subse-

quently wrote. Dr. Carter, at the inquest, said of this visit on the 7th, "He," (the patient), "told me that he had been suffering from vomiting and diarrhœa for some days,"—a statement which he substantially repeated before the magistrates. But the patient had not in fact been suffering from diarrhœa for some days, or at all, and it is evident that the doctor confounded what the patient told him with statements made to him by some one else. He discovered his mistake before the trial, and here is the way in which he corrected it: "I make a slight correction in the sequence of the symptoms. Diarrhœa was just appearing." In his subsequent medical article, Dr. Carter chronicled the late appearance of diarrhœa as the most remarkable anomaly in the case (regarded as one of arsenical poisoning). This being so, it seems hardly fair—especially in giving evidence on a trial for life before a judge and jury who were unversed in such matters—to describe the substitution of its late for its early appearance as "a *slight* correction in the sequence of the symptoms." But when a doctor once forms a strong opinion, he is not disposed to give prominence to any fact which conflicts with it.

Again, when Dr. Carter was asked, at the trial, why he fixed on the 3rd of May for the date of administration of the fatal dose, his first answer was, "*I had that date in my mind.*" But on being pressed he added, "I was *told* that he was unable to retain anything on his stomach for several days." Now the evidence did not go to this length. Dr. Humphreys had indeed ordered the patient to leave off eating and drinking on the morning of the 4th, because vomiting came on whenever he did so, and the doctor did not renew his permission to take food and drink for 48 hours afterwards; but it is evident that the prohibition was not absolute, since the patient had taken Valentine's meat-juice under the doctor's direction during the interval, and

Dr. Humphreys directed him to stop it because he complained that it made him vomit—a reason which seems to imply that he was able to retain some other things without vomiting. Indeed he retained the brandy and soda which his brother gave him contrary to the doctor's orders on the 5th for at least a quarter of an hour and only vomited it when he tried to take something else. Dr. Carter had, therefore, formed his opinion on statements which, as regards diarrhœa, were erroneous, and as regards vomiting, exaggerated.

In a subsequent medical article, Dr. Carter gives an account of the charge of poisoning made by Mr. Michael Maybrick against his sister-in-law, in the presence of both the doctors, on May 9th. The writer admits that he was deeply impressed by the truthfulness of Michael's manner, and his apparent reluctance to make the charge, which he hoped might save his brother's life. Certainly these were reasons which would influence any doctor; but if he formed his opinion in any degree upon them, he ought to have said so to the judge and jury. Dr. Carter, however, goes on to state briefly what Michael told him, viz.: "that only so late as the middle of April, the patient had been able to eat any ordinary food at his (Michael's) house; that he had soon been subject to sick attacks after returning home; that this contrast between his condition of health while at and away from home respectively, had been the subject of remark, and had been noticed before; that there was a most serious estrangement between the husband and wife; that the wife was known to have been unfaithful, and that just before the commencement of his illness she was known to have procured many fly papers." Now, it is certain that a good deal of this statement was not borne out by the evidence at the trial. It was not proved that he had been better when away from home, or that he had

been liable to sick attacks soon after his returns. Indeed, the case for the crown at the trial was that he was a strong, healthy man up to the 27th of April, and one of the witnesses, whose evidence they relied on in establishing this was Michael Maybrick himself, whose evidence (as well as Mr. Addison's opening statement for the crown) Dr. Carter had no doubt listened to before his own examination. Michael, moreover, must have been aware of the reconciliation, as well as the quarrel, but he seems to have made no mention of that. The doctor, therefore, appears to have been too hasty in his conclusions as to Michael's truthfulness, and his reluctance to accuse Mrs. Maybrick, and if he had made further inquiry he would probably have found that the relations between him and his sister-in-law were of rather a strained character. Michael, however, clearly indicated, when making the original charge, that the poisoning had been going on for a considerable time, and it is noteworthy that neither of the doctors replied that even if the patient was then suffering from poison, the administration must have commenced very recently. The truth appears to be that the theory of an early commencement of the poisoning (adopted by the police before the magistrates) was only abandoned because no arsenic could be traced to Mrs. Maybrick, or found in the remains of any of her husband's food or medicine, until near the end of April. It was not on the symptoms that the patient exhibited, but on extraneous facts of this kind that the doctors appear to have formed their final opinions, at least as regards the dates. Nor were their opinions as to the cause of death formed at once when the charge was made. Even then—two days before the patient died—Dr. Carter did not see his way to adopt fully the theory of Mr. Michael Maybrick. The latter gave him a bottle of Neave's Food to analyze, Mrs. Maybrick

having been suspected of having tampered with it, for some reason that did not appear. It was with "a feeling of intense relief," Dr. Carter tells us, that he found this specimen "free from any trace of metallic irritant." For the time he evidently gave up the idea of arsenical poisoning notwithstanding the extent to which Michael had impressed him. But on the next day he got a bottle of Valentine's meat juice to analyze. There *was* arsenic in that, and Dr. Carter then came to the conclusion that the patient was being poisoned with arsenic, a conclusion which no subsequent evidence could shake. No doubt this meat juice affair is one of the strongest points against the prisoner, but is no *confirmation* of Dr. Carter's opinion. It was the very thing that decided him when his mind was wavering—nay, inclining the other way. Of that meat juice, it should be mentioned the patient had not taken a single drop. Whatever light it might throw on the past, it clearly had nothing to do with the man's illness or death. This opinion, moreover, was only formed on the night before the patient died. It is clear that independently of the analysis of this bottle, there was nothing, up to the last day, in the patient's symptoms that, in the doctor's opinion, pointed to arsenical poisoning, and had the meat juice proved to be pure, he would not only have experienced a second feeling of intense relief, but have signed a certificate as to the cause of death which would have prevented any further inquiry.

Other traces of misinformation occur in Dr. Carter's medical articles. "I did not know until much later," he writes, "that Mr. Maybrick had vomited on the morning of the" (Wirral) "races, and that he attributed this vomiting to an overdose of some *aperient* medicine." But it was not of the aperient medicine (in the dregs of which traces of arsenic were afterwards discovered) that Mr. May-

brick had taken an overdose on this morning or to which he ascribed his illness, as the evidence of Mary Cadwallader suffices to prove, even if it were not otherwise corroborated. It was of course competent to the doctor to contend that the illness which Mr. Maybrick erroneously ascribed to an overdose of a different bottle (strychnine) was really due to an ordinary dose of the aperient medicine into which arsenic had been introduced without his knowledge. But Dr. Carter had evidently been listening to some liar who told him that Mr. Maybrick had ascribed his illness to an overdose from the bottle in which arsenic was afterwards detected. Again, speaking of the aperient mixture, he says, "Similar bottles found at the office contained no arsenic." This is another lie, which, though generally circulated at the time, (the prisoner had enemies enough), was clearly disproved at the trial. The two bottles found at the house and office, respectively, were intended for different purposes and did not contain a single ingredient in common. If arsenic had been introduced into one, either by mistake or by Mr. Maybrick himself, it is in the last degree improbable that it would have been also introduced into the other. Who was the liar on whose tale Dr. Carter in this instance relied?

Dr. Stevenson, as a medical expert residing at a distance, might have been expected to have kept free from these malicious rumors; but he appears to have been influenced by them to even a larger extent than Dr. Carter, and accepted or rejected facts according as they agreed or did not agree with his theory, almost entirely regardless of the rules of evidence. I am not commenting on his analysis. I will assume that they were correct, though the late period at which the remains were sent to him for analysis (after lying for seven weeks in Mr. Davies's laboratory) placed every one at a disadvantage. But here is the way in which

this medical expert commences his explanation of the conclusions which he arrived at respecting the cause of death: "The marriage was an unhappy one, and for two years before Mr. Maybrick's death they occupied, at night, separate rooms on the first floor, which at the trial were spoken of as the bed-room and dressing-room respectively." Such considerations as these are emphatically what a medical expert should avoid. But the statement is a lie, pure and simple, though of course it did not originate with Dr. Stevenson. They had occupied the same room less than a month before Mr. Maybrick's death, as the evidence proved, and they had only resided in the house, where Mr. Maybrick died, for about a year. Dr. Stevenson then throws doubt on the reality of the reconciliation, and after giving some other family details of very doubtful accuracy, he informs us that the evidence that Mr. Maybrick was an arsenic-eater "was altogether inconclusive." It is hardly within the province of a medical expert to enter into such questions and to found his opinion (without stating the fact at the time) on the rejection of evidence which the jury might have been willing to accept. Of Mr. Maybrick's illness on April 27th he says, "he told the clerk at the office, later in the day, that he had been for an hour on the W. C. Of course this might refer to constipation ; but when coupled with sickness, it is far more likely that there was diarrhœa. He also appears to have had some cramps. He attributed his illness to an overdose of Dr. Fuller's medicine." Now the clerks were examined three times and neither of them ever made, on oath, the statement thus ascribed to one of them by Dr. Stevenson. Assuming it to be true, however, we have the evidence of Dr. Humphreys that when called in on the following day, the patient complained of constipation, for which the doctor ordered him a mild laxative. As to the cramps, the only

evidence on the subject is that Mrs. Maybrick said to Alice Yapp that her husband had been sick and in great pain—not specifying the locality—while the bottle of which he took an overdose does not appear to have been Dr. Fuller's. Of the next day Dr. Stevenson says that he was again "sick and ill." If by "sick" he means vomiting, there is no evidence that he vomited on the 28th of April, save in consequence of Mrs. Maybrick's emetic of mustard-and-water. "It may be reasonably inferred that on this day he had some collapse and perhaps diarrhœa, for he had arrow-root, and a hot bottle was applied to the feet." As already stated, he complained of constipation on this day, and there is nothing in the evidence about applying a hot bottle to his feet. Of his state on the 3rd day of May, Dr. Stevenson states, "The patient said he had been sick *from revelenta*,"—intending, no doubt, to imply that he had vomited in consequence of having taken the *revelenta arabica* which his wife made up for him and sent to his office. But this was more than twenty-four hours before he vomited. Mr. Maybrick in fact had considered himself worse on the morning of this day and ascribed it to bad sherry having been put in the revelenta food on the day before; but there was then no vomiting nor any accession of illness, except that his tongue had become somewhat dirtier. As Dr. Stevenson truly says elsewhere, "On this day (the 3rd) it is unknown where he had lunch"—for he had forgotten to take with him that which his wife had prepared for him. All that we know about his lunch on the day when his illness first assumed a serious turn is that he did *not* take the dietary prescribed for him by Dr. Humphreys.

"At the coroner's inquest," writes Dr. Stevenson, "when the circumstances were fresh in Dr. Carter's mind, he made the further statement that the temperature was normal and that there was a history of several days" (Dr. Carter's

expression was "*some* days," not "several days,") "vomiting and diarrhœa;" and then, after noticing Dr. Carter's correction at the trial, he goes on: "It is generally most probable that the first statement in order of time is the most correct----------. It was strenuously contended for the defence that there was no diarrhœa till the night of the 8th of May. *I cannot doubt that diarrhœa did exist for several days before the 8th;* but as Mrs. Maybrick on every occasion but one before the 8th herself removed all the slops and herself nursed her husband with assiduity, the existence of diarrhœa might readily escape the observation of outsiders and servants." (Mr. Edwin Maybrick as well as Dr. Humphreys being, I presume, "outsiders.")

The doctor thus concludes that there was diarrhœa at this period, as his theory required, on two items of evidence, viz.: 1. A statement by Dr. Carter at the inquest, which he retracted at the trial, and 2. The alleged fact that Mrs. Maybrick could have concealed its existence. Well, let us see. Dr. Humphreys had been there twice every day since the 2nd of May. He had often remained for a considerable time. He had noticed vomiting and hawking. He never noticed diarrhœa. The patient complained of vomiting and hawking, of thirst, of his throat, of his tongue, but never referred to diarrhœa. What the doctors saw on the 7th was merely a loose motion—like that of typhoid fever, as Dr. Carter observed. It was diarrhœa "just appearing," not diarrhœa at a late stage. But can it be supposed that Dr. Humphreys never examined the *fæces* before? He does not appear to have been asked the question on his own examination, but here is what Bessie Brierly, the housemaid, a witness hostile to the prisoner, said in reply to Sir C. Russell:

"In reference to this question as to the slops, did your mistress give you a reason? No, sir.

"Do you know that they were kept for Dr. Humphreys to see? I did not know at the time.

"Do you know now? Yes, sir."

And when Dr. Carter called on the 7th, he was shown both the *fæces* and urine, which had been kept for the purpose. He asked to see some of the vomited matter, but found that none had been retained, which was natural enough as the patient had not vomited for a considerable time before his arrival. Dr. Stevenson, however, continues the same series of incorrect (or at all events improved) statements during the rest of his article. On Wednesday, the 8th, he says, "he vomited several times during the morning, but this was alleviated in the afternoon. During the night of the 8th–9th severe tenesmus set in and continued to the end. When Dr. Carter saw him on the 9th the nurse stated that the patient had been troubled with tenesmus and diarrhœa all night, and blood was observed in the *fæces*." Now what are the facts? The only evidence that he vomited on Wednesday morning is Nurse Gore's statement that she was *told* that he had been vomiting before she arrived; but this expression is vague enough to refer to previous days. There is no reference to vomiting on this day in the evidence of Dr. Humphreys, Mr. Edwin Maybrick, Mrs. Briggs or Mrs. Hughes, all of whom saw him on this morning. In the evening, the "alleviation" of the vomiting simply means that he did not vomit at all, not until sixteen hours after Nurse Gore took charge of him; after which he seems to have remained for at least the same time before vomiting for the second time since the nurses were called in. The patient did indeed suffer from diarrhœa and tenesmus on the night of the 8th–9th. But even here Dr. Stevenson is not accurate. It was not the nurse, but the patient himself, who told Dr. Carter about it on the 9th, and in fact the nurse, who was

then in charge, could not have done so, because she had only taked charge of the patient at 11 o'clock in the forenoon. No doubt the patient would have as readily complained of diarrhœa and tenesmus, if he had experienced these symptoms previously, but this did not accord with Dr. Stevenson's theory. Moreover, I find nothing in the evidence as to the *fæces* exhibiting traces of blood on this day; and as Dr. Humphreys took some of them for analysis, (and found no traces of arsenic), he could hardly have failed to notice this symptom if it really existed. When, therefore, Dr. Stevenson concludes, "whatever may have been the cause of the deceased man's illness up to May 3d, I am of opinion that we have from this date a clear history of acute gastro-enteritis, pointing more to arsenic than to any other known irritant," I am quite ready to accept his *dictum*, subject to one slight qualification, viz.: that this history exists in the pages of Dr. Stevenson and not in the evidence given at the trial, or in any other authentic narrative of the facts.

But how did Dr. Stevenson come to believe in and to retail to the profession and the public such a tissue of erroneous and unproved statements? It will be noticed that in his article hs passes over poor Dr. Humphreys in complete silence, and always refers to Dr. Carter. The two leading medical witnesees for the crown, both eminent in the profession, though not in the same branch of it, would naturally confer with each other pending the trial; and I strongly suspect that the idle stories in Liverpool, where they were circulated by the hundred, were retailed by Dr. Carter to Dr. Stevenson and accepted as gospel by the latter. Had the original inventors of these tales told them to Dr. Stevenson, he would not improbably have treated them with the contempt which they deserved; but coming to him through the medium of a respected colleague,

he swallowed them all. His opinion was based on a state of facts which existed nowhere but in the imaginations of his colleague and himself; and resting on such a basis it is, in my opinion, entitled to no weight whatever. I am not claiming any special knowledge of medical matters, but, though I cannot compute the orbit of a double star, I know that if an astronomer computes it on the assumption that the distance was 5 seconds and the position angle 50 degrees, when the distance was really 10 seconds and the position-angle 120 degrees, his orbit will be egregiously wrong. This is the kind of error by which Dr. Stevenson's conclusions in the Maybrick case are effected.

Dr. Stevenson further says, "The amounts and relative proportions of arsenic found by me and Mr. Davies in the *viscera* were such as are ordinarily met with in undoubted cases of acute arsenical poisoning." This would no doubt be a strong point in favor of his general conclusion, if his examples fully bore it out; but it still has a defect, viz.: he does not state that these quantities and this distribution are never found except in cases of undoubted arsenical poisoning. His examples, however, do not seem to me to bear out his statement. The only one which he gives in detail is the analysis of Dr. Chittenden, in the *American Chemical Journal*, vol. V., p. 8. I give the figures in the two cases in parallel columns:

	Dr. Chittenden's Case.	Mr. Maybrick.
Stomach and gullet	0.158 grs.	0.000 grs. est.
Intestines	0.314 "	0.090 "
Liver	0.218 "	0.300 " "
Kidneys	0.029 "	0.010 " "
Lungs and spleen	0.172 "	0.000 "
Heart	0.112 "	0.000 "
Diaphragm	0.010 "	0.000 "
Total	1.013 grs.	0.400 grs.

I fail to see the similarity either in the quantity or in

the distribution. In the other five cases given by Dr. Stevenson he states the amount found in the liver only and says nothing of the other viscera or the distribution. In four of the five, the amount was considerably greater than in Mr. Maybrick's liver. In the fifth it was only 0.055; but Dr. Stevenson could not, I think, deny that much more than that amount had been found in the liver of a person whose death was not caused by arsenic. If, however, Dr. Stevenson was only contending that the quantity of arsenic found in Mr. Maybrick's body and the distribution of it was not inconsistent with death from arsenical poisoning, I would leave it to others to contest the point; but he evidently desires to convey to the reader that it affords a proof, more or less conclusive, of arsenical poisoning; and in arguing that point, he misrepresents the evidence of the principal medical witness on the other side—Dr. Tidy. He describes the latter as saying, "In the case where it" (arsenic) "was given for three months, I found in the liver, upon analysing it, 0.028 grains of arsenous acid"—on which he makes this comment, "*Of course this refers to the whole liver.*" Now Dr. Tidy was actually asked at the trial—no doubt in the presence of Dr. Stevenson—"That would be 28-1000th, would it not?—Yes. Oh, no. *There were two-tenths of a grain in the whole liver.* It was mashed up and I took six ounces of it and determined the arsenic in that amount multiplied by the weight of the liver, which I was justified in doing, having an uniform mash." The liver in this instance, as I learn from a subsequent article by Drs. Tidy and M'Namara, weighed 45 ounces, and the total quantity in the liver was therefore 0.210 grains, or almost the same as in Dr. Chittenden's case; whereas, in the case which Dr. Tidy analysed, arsenic had nothing whatever to do with the death of the patient. Moreover, Dr. Tidy went on to mention another

case in which the liver of a man, who died from other causes, contained 0.174 grains of arsenic. If Dr. Stevenson thought that Dr. Tidy had only found 0.028 grains in the whole liver in the former instance, why did he pass over, in absolute silence, the second case, in which Dr. Tidy's evidence, as to the existence of more than six times that amount in the entire liver, was perfectly unequivocal? Did he really wish the profession and the public to believe that the liver of a man who died from other causes never contained as much as one-twentieth of a grain of arsenic? Surely an analyst of his experience must have known the contrary. Why, then, did he not honestly admit it? Moreover, after reading this article, I should wish to know on what grounds Dr. Stevenson concluded that the cases referred to were "undoubted cases of arsenical poisoning." Was this established on purely medical grounds, or did he listen to stories in them also?

I conclude with two other specimens of Dr. Stevenson's accuracy, which may appear out of place in this part of my paper, but I am following his own order. On "Friday, May 3rd," he tells us, "at least six hours after the deceased's return home and presumably after he had taken an evening meal, gastro-enteritis set in with alarming severity." Now what are the facts? Mr. Maybrick vomited twice shortly after returning from his office, after which, I presume, he did not take any evening meal; but he complained of nothing more until near midnight when he was attacked with violent pains in his thighs, extending down to his knees. Dr. Humphreys was then sent for and, having tried other remedies without success, resorted to the morphia, to which he ascribed the subsequent vomiting. Of this vomiting, however, there seems to have been no symptom when Dr. Humphreys went home after midnighi; and the question then is whether vomiting twice (appar-

ently before taking anything at his house) and a subsequent attack of pain in his thighs implies an attack of "gastro-enteritis of alarming severity." When the subsequent vomiting commenced, the evidence did not show. Probably not early on the morning of the 4th, or else Dr. Humphreys would have been sent for. He found it in progress when he called, rather late in the forenoon, but does not seem to have asked when it began. However, if the patient had been vomiting all night he would probably have complained of it. The probability is that there was no persistent vomiting before 7 or 8 o'clock on the morning of the 4th; and if Dr. Humphreys was right in ascribing this to the morphia which he had administered shortly after the previous midnight, there seems to be little evidence of gastro-enteritis having set in with alarming severity, even at this hour on the 4th. Perhaps the unauthorized administration of brandy and soda-water on the 5th, and the equally unauthorized administration of Valentine's meat-juice on a subsequent day (after Dr. Humphreys had stopped it because it made his patient vomit) had more to do with the fatal result of the illness than the crown doctors were willing to acknowledge. But it was not the prisoner who administered these things.

But a stranger speculation follows. In giving a very inaccurate statement of the places where arsenic was found in the house, subsequent to Mr. Maybrick's death, the doctor meets with the bottle of "weak arsenical solution with some scent," which Mrs. Maybrick claimed as her face-wash. Of course the doctor would not grant this much, and he accordingly gives us his own theory on the subject. "*This was apparently a medicine prescribed by Dr. Fuller as a laxative.*" The quoit-players could not have made a worse random shot than this when Diogenes sat down beside the mark to avoid being hit. Dr. Fuller's laxative

was compounded by Messrs. Clay & Abraham, the well-known chemists of Liverpool. Does Dr. Stevenson imagine that they put it into a scent-bottle and left that scent-bottle unlabeled? But if he had been attending even moderately to the evidence, he would have found that this laxative mixture was otherwise accounted for—and, moreover, that arsenic was found in it. But with his usual inaccuracy, Dr. Stevenson tells us that it was the bottle at the office, not the bottle at the house, in the dregs of which traces of arsenic were detected; but then, unwilling to let the bottle at the house escape, he draws his bow at a venture and hits the bottle of face-wash, which no one except Dr. Stevenson ever dreamt of describing as containing a medical prescription of any kind! It is clear that some medical men who are eminent in their profession, will adopt errors that could scarcely impose on a schoolboy, when they accord with their theories. If the motion of the sun round the earth would have tended to establish Mrs. Maybrick's guilt, while the Copernican theory afforded an argument on the other side, I would fully expect to find Dr. Stevenson enrolled amongst the followers of "Parallax" and John Hampden.

The pamphlet published by Drs. Tidy and M'Namara is in marked contrast to the utterances of the medical witnesses for the crown. It is as free from inaccuracy as any pamphlet on such a subject could be expected to be, and if there is a little special pleading, there is an almost total absence of speculation as well as of accepting and rejecting with a view of accommodating the facts to their theory. The title of the pamphlet, I think, explains this difference. The principal author is "Charles Meymott Tidy, M. B., F. C. S., of Lincoln's Inn, Barrister-at-Law." A very slight knowledge of the ordinary principles of evidence would have given a totally different turn to the medical articles of Drs. Stevenson and Carter.

MEDICO-LEGAL SURGERY.

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PROGRESS OF MEDICO-LEGAL SURGERY.

BY CLARK BELL, ESQ., LL. D., HONORARY MEMBER INTERNATIONAL ASSOCIATION OF RAILWAY SURGEONS, HONORARY MEMBER NEW YORK STATE ASSOCIATION OF RAILWAY SURGEONS, PRESIDENT INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE, HONORARY MEMBER AMERICAN ASSOCIATION PHYSICIANS AND SURGEONS.

In considering Medico-Legal Surgery, I shall treat it under three separate heads, "Military Surgery," "Naval Surgery" and "Railway Surgery."

Recent events, which have unfortunately resulted in a war between the United States of America and Spain, into which the American Government has just entered, and is devoting its highest energies, will give additional interest to a study of the first two of three subdivisions, Military and Naval Surgery, which for the present purpose may be considered together.

Military and Naval Surgery.

Military Surgery.

In all countries the military surgeon forms a fixed and distinct arm of the service of the army of the nation; and its relation to medico-legal science has been well defined in the past in the service of the American Government.

The army medical department, as organized in the American Government, constitutes one of the bureaus of the War Department, and is composed of one surgeon general, with the rank of brigadier general; six surgeons, with the rank of colonel, and styled assistant surgeon general; ten surgeons, with the rank of lieutenant colonel, styled deputy surgeon general; fifty surgeons, with the rank of major and one hundred and

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Read before the American Association of Physicians and Surgeons, at Annual Meeting, June Session, at Chicago, Ills.

Read by title, in absence of author, at International Association of Railway Surgeons, at Toronto, Ontario, July, 1898.

ten assistant surgeons. All assistant surgeons enter the corps by competitive examination, and are commissioned as first lieutenants; after five years, and upon passing successfully the required examination, they are promoted to the rank of captain. Promotion throughout the corps is by seniority. There are no regimental surgeons, but medical officers for posts, armies and commands are detailed for whatever duty may be required.

The medical department of the army also comprises the hospital corps, made up of hospital stewards, acting hospital stewards and privates, the number of each determined by the necessities of the service. The hospital corps is divided among the several posts where troops are stationed, and in force proportionate to the size of the post.

The army medical officer of whatever grade is a regularly commissioned staff officer, appointed by the President and confirmed by the Senate, holding his commission for life unless deprived of same by sentence of court-martial. The medical officer *cannot assume command* except in his own department, but by virtue of his commission he *may command all* enlisted men like other commissioned officers. Medical officers, by virtue of commission, are entitled to sit on courts martial, boards of inquiry, or other boards or commissions, taking their places by seniority.

Each military department is entitled to a medical officer on the department staff, known as the chief surgeon of the department, and in times of war, or of active field duty, a chief surgeon of an army, army corps, or division is detailed to duty with the general officer commanding such forces.

A more specific and detailed account of the duties, etc., of medical officers of the army is contained in the Army Regulations, U. S. A. A "Circular of Information for Candidates Seeking Appointment in the Medical Corps of the United States Army" can be obtained on application to the Surgeon General's Department of the Army. (*Vide* also Medical and Surgical History of the War of the Rebellion; Buck's Reference Handbook of the Medical Sciences, Vol. III, pp. 105 *et seq.*; *Ibid.* Vol. IX. Supplem. 640 *et seq.*; Piecher's First Aid to the Wounded; "Index Catalogue," Library of the Surgeon General's Office; Taylor's Medical Jurisprudence, 12th American Edition, Lea Brothers & Co., Phila.)

In the several American States the National Guard has attached to it the regimental surgeon as the basis of its system.

The Association of Military Surgeons of the United States.

In the United States of America the military surgeons of the country have united in an organization—The Association of Military Surgeons of the United States—which embraces all branches of surgeons connected with the regular army and navy, as well as the military surgeons connected with the National Guard of the several states of the American Union. This body meets annually to consider questions connected with military surgery, and its contributions to the literature of this branch have been most important, and form a valuable contribution to the literature of military and naval surgery.

The National Guard of the States.

The medical Service in the National Guard of the several States of the American Union is organized under the State Laws of the States upon a wholly different system. Each state has in its National Guard a Surgeon General who is the highest officer in the medical service of the State. The basis of the practical service is a regimental surgeon to each regiment. Each regiment has its own surgeon, and in the great army now organizing to carry on the war with Spain, the call has been made by the President upon the Governors of the several states, who have thus far each furnished their quota from the National Guards of the several states, under the regimental system and a surgeon goes out with each regiment of the volunteer force of the American Army.

In Great Britain, France, Germany, Italy, Spain and the Continental countries, the Army Regulations in each Nation fix the status, powers, duties and responsibilities of the Army Surgeon.

Naval Surgery.

The medical jurisprudence of naval surgery does not materially differ from that of army surgery, but it is perhaps proper to speak of it by itself.

The Medical Corps of the American Navy is allowed by statute law a membership of 170 The corps is divided into five grades, to wit: Medical director, medical inspector, surgeon, passed assistant surgeon, and assistant surgeon, which have the relative rank respectively of captain, commander, lieutenant-commander, lieutenant and lieutenant junior grade, and ensign.

Admission to the Corps is based entirely upon merit as deter-

mined by examination before a board of medical officers, carefully selected for this purpose. A copy of circular showing scope of examination can be obtained on application to the Surgeon-General of the United States Navy. When a candidate is successful before the board, he is commissioned by the President, by and with the consent of the Senate, as an assistant surgeon, with the relative rank of ensign. After three years' trial in the service as an assistant surgeon he is examined by the Medical Examining Board for promotion to the grade of passed assistant surgeon. In the event of failure he is again examined at the expiration of another year, and should there be a second failure he is dropped from the naval service. On promotion to passed assistant surgeon a new commission is issued by the President. Promotion from the grade of passed assistant surgeon and the other higher grades is by seniority, after examination before a board of medical officers.

The rank of the members of the Medical Corps, while conferred in the same manner as in the case of the members of the line corps, is relative, and in two grades, as shown above; there may be two ranks in the same grade, depending upon promotion in the line corps.

In Great Britain and in most foreign countries the naval surgeon occupies a similar position in relation to the service of his Government in the department of the Navy; and the officers of both arms of the service usually unite in practical recognition in army and navy clubs and in the united service of both branches of the service on land and water which is also true of the Dominion of Canada and the colonial dependencies of the English crown.

Railway Surgery.

Railway surgery has become by far the most important branch of surgery in its relation to medical jurisprudence, when considered in its volume and as affecting the great body of the people, especially in the United States of America. The evolution of the railway system, especially upon the North American continent (which now has more miles of railway almost than all other countries combined) has in its train, and as a necessity, wrought radical changes, to both the legal and the medical professions, and has brought nearly every inhabitant in the United States of America and the Dominion of Canada, into new and at the same time more immediate and direct communication and relation, to and with the management of railways.

The railway has revolutionized commerce, manufactures, mining, agricultural production and development, and indeed every branch of human industry. All manufactures, all products, are now brought to the market by the railway. It has superseded all other methods of travel or transportation where distance is a factor, and has become to the body politic—the State—what the arterial and venous circulation is to the human structure. In 1891, the Dominion of Canada had completed and in operation 14,000 miles of railways, while the United States had 214,000 miles, including double tracks and sidings. An enormous impetus and increase has since constantly occurred. (Med.-Legal Jour., xi. p. 37.) Mr. Justice David J. Brewer, of the Supreme Court of the United States, in his address before the New York State Bar Association, stated that in 1893 there was $11,000,000,000 invested in railway property in the United States whose shareholders in this country number less than 2,000,000 persons. (Med.-Legal Jour., vol. x. p. 404.)

From an inexorable necessity, where the railways transport such vast numbers of the population, in all the varied pursuits and business of men, accidents have become a part and feature of the system; and the well-equipped railway of the present day must almost of necessity have its surgical system and its legal system. Chief Surgeon C. W. P. Brock, in his presidental address before the National Association of Railway Surgeons, in June, 1893, stated that "During the year ending June 30, 1891, 7029 persons were killed on railways in the United States, 40,910 injured. Of these 2660 employes were killed and 293 passengers, and of the total injured 26,140 were employes." (Med.-Legal Jour., vol. xi. p. 64.) There are a few railways who have perhaps not yet recognized this as indispensable, but only a few; and it may be stated as a truism, that every first class railway must have its legal advisers, attorneys and counsel, on the one hand, and its chief surgeon, and surgical staff, on the other. The railway that neglects to provide these two important adjuncts for its operation, is not fully equipped for its work; and without proper surgical organization it would not only pay double what it should in accident and damage cases; but would not properly provide for the care of the wounded and sufferers from accidents, of its own employes in its practical operation. The railway counsel has long been a conceded and recognized factor in

railway administration; the railway surgeon is quite as necessary, almost as important, and his field of duty is an outgrowth of the railway system, which is to a large extent a part of the growth and evolution of the railway itself. The railway surgeon has, in the United States of America, become a distinct and representative part of the medical profession; and he has come to stay, as a fixed part of our railway system.

Section of Medico-Legal Surgery (of the Medico-Legal Society.)

The growing importance of railway surgery in medical jurisprudence was distinctly recognized by the Medico-Legal Society, on September 6, 1893, by the organization of a Section of Medico-Legal Surgery, embracing railway counsel and railway, military and naval surgeons, under a chairman and twenty vice-chairmen, selected ten from each profession from the various states of the American Union. This action was based upon recommendation made in an address entitled, "Railway Surgery in Law and Medicine," made before the National Association of Railway Surgeons, at Omaha, Nebraska, June 7, 1893. (*Vide* Med.-Legal Jour., Vol. I. p 37 (June, 1893); *Ibid.* Vol. XI p. 203.) Chief Surgeon Granville P. Conn, M. D., of Concord, New Hampshire, was its first chairman, and was succeeded by Chief Surgeon J. B. Murphy, M. D., of Chicago, Ill. The chief merit and usefulness of this organization lay in its uniting in its labors railway lawyers of eminence and distinction, and the leading chief surgeons of the prominent American railways, so that both sides of all questions could be studied, as well from the legal as from the surgical and medical side.

The record of the labors of this body can be best considered and appreciated by its annual reports. The first annual report, of the year 1894, showed the history of the organization, and gave its officers and a list of members, embracing twenty-eight of the leading chief surgeons of American railways, and a large number of local surgeons, military and naval surgeons, and eminent railway counsel. It defined its province and domain by the following resolution: "*Resolved*, That all questions in medico-legal surgery are to be deemed within the province of the Section, including military, naval and railway surgery and the broad domain of surgery in its relation to medical jurisprudence." (*Vide* full report, Med.-Legal Jour., Vol. XII, p. 471.)

The following abstracts are made from its second annual report, January 2, 1896:

"The Section is intended to embrace, beside naval, military and railway surgeons and counsel, railway managers, railway superintendents and claim adjusters—railway officials, whether lawyers or surgeons; many of whom have already united with the body, and who are eligible to membership under the statutes of the Society. The officers of the Section are annually chosen. Three members of the Executive Committee constitute a quorum, and five of the board of officers of the Section.

The work of the Section during the preceding year has been devoted to the advancement of the science of the medical jurisprudence of surgery in all of its branches. The papers contributed upon these branches of science have been in part published in the Medico-Legal Journal, which is the official organ of the Section, except those contributed to the Medico-Legal Congress, of September, 1895, which will appear in the Bulletin of that Congress."

Its annual reports January 1, 1897, and January 1, 1898, published in the Medico Legal Journal show the great field of its usefulness and utility. (*Vide* March Nos. Medico Legal Journal, Vols. XIV and XV.)

This section now embraces about one hundred and twenty members, of which twenty-three are chief surgeons of railway systems; two surgeon generals of states, and the remainder local surgeons, railway counsel and railway officials, of which a list is contained in March number Medico-Legal Journal, 1898, with a detailed statement of its section work.

The National Association of Railway Surgeons.

This is, so far as numbers go, the most powerful of the societies of railway surgeons.

It was founded in June, 1888, and its first President was Surgeon J. W. Jackson, M. D., elected at Chicago, Ill. The idea of its founders was to open its doors to every railway surgeon in the United States and the Canadas, and it soon grew into a very large body. At the meeting held at Galveston, Texas, in May, 1894, the enrolled membership exceeded 1700 names, and there were nearly one thousand persons in attendance at the session. Some there thought that the body was too large and unwieldy, and that that period was perhaps the maximum of its growth. It has not increased since then.

The scope of the work of this society is very broad, covering

the entire field of railway surgery, and it aims to interest and associate every railway surgeon. It has held annual meetings in May of each year. It has made large contributions to the literature of railway surgery, and has published a journal which was for all the earlier years, under the editorship of Prof. R. Harvey Reed, then the treasurer of the organization.

Perhaps the most active and influential man in this body is and has been Wm. B. Outten. M. D., Chief Surgeon of the Missouri Pacific Railway system, of St. Louis, Mo. He was president for one term, and on the retirement of R. Harvey Reed, M. D., became the editor of the journal, now called the "Railway Surgeon," a position he still holds.

Its presidents have been as follows; Surg. J. W. Jackson, Surg. J. B. Murdock, M. D., of Pittsburg, Pa., was elected May, 1889, at St. Louis, Mo. Chief Surg. Wm. B. Outten was elected May, 1890, at Kansas City. Dr. J. H Murphy, of St. Paul, was elected May, 1891, at Buffalo. Chief Surg. C. W. P. Brock, of Richmond, Va., was elected May, 1892, at Old Point Comfort. Chief Surg, W. J. Galbraith, M. D., of the Union Pacific R. R. Co., was elected May, 1893, at Omaha, Neb. Chief Surg. Samuel S. Thorn, of Ohio, was elected May, 1894, at Galveston, Texas. Chief Surg. J. B. Murphy was elected May, 1895, at Chicago. Surg. F. J. Lutz, M. D., was elected May, 1896, at St. Louis. Dr. George Ross, of Richmond, Va., was elected May, 1897, at Chicago.

Present officers: These are as follows: President, George Ross, Richmond, Va. Vice-Presidents, (1st) J. A. Hutchison, Montreal, Can.; (2nd) A. L. Fulton, Kansas City, Mo.; (3rd) De Saussure Ford, Augusta, Ga.; (4th) John J. Buchanan, Pittsburg, Pa.; (5th) H. L. Getz, Marshalltown, Ia.; (6th) R. R. Lawrence, Hartford, Mich.; (7th) W. Q Marsh, Sierra Mojada, Coahuila, Mexico. Treasurer, E. R. Lewis, Kansas City, Mo. Secretary, Louis J. Mitchell, 71 Laflin Street, Chicago, Ill. Executive Committee, W. B. Outten, St. Louis, Mo.; J. B. Murphy, Chicago, Ill.; Jas. H. Letcher, Henderson, Kentucky.

At its last meeting, in May, 1897, this body changed its name to "The International Association of Railway Surgeons," and it selected Toronto, in the Dominion of Canada, as the next place of meeting, in July, 1898.

The American Academy of Railway Surgeons.

This is an organization founded in 1894, composed of rail-

way surgeons of eminence in the United States, and is an outgrowth of the National Association of Railway Surgeons. Its origin was due to differences of opinion existing among the original founders and prominent members of the elder society, both as to the basis of organization of the National Association of Railway Surgeons, and its methods of work. Surgeon General R. Harvey Reed, M. D., now of Rock Springs, Wyoming, was an important factor in the organization of the American Academy of Railway Surgeons, and one of the leading spirits. Since its organization he has been its Editor.

This body has a membership (limited by its constitution to 200) of about 130 at the present time.

Its first president, elected in November, 1894, was Chief Surgeon C. K. Cole, of Helena, Montana, of the Montana Central Railway. Chief Surgeon John E. Owens, of the Chicago & Northwestern Railway Company, of Chicago, was its second president. L. E. Leman, M. D., of Denver, Colorado, was its third president, and Prof. R. Harvey Reed, M. D., now Surgeon General of Montana, is its president. It holds annual meetings.

Its present Board of Officers is: President, Dr. R. Harvey Reed, Rock Springs, Wyo.; First Vice President, Dr. W. J. Mayo, Rochester, Minn.; Second Vice-President, Dr. A. D. Bevan, Chicago, Ill.; Secretary, Dr. D. C. Bryant, Omaha, Neb.; Treasurer, Dr. C. B. Kibler, Corry, Pa.; Editor, F. J. Hodges, Andeson, Ind.; Ch. Executive Board, F. K. Ainsworth, Los Angeles, Cal.; Ch. Com. on Transportation, Dr. W. J. Galbraith, Omaha, Neb.; Ch. Com. Arrangements, Dr. Milton Jay, Chicago, Ill.

Its next annual meeting will be held Oct. 5, 6 and 7, 1898, at Chicago.

State and Other Associations of Railway Surgeons.

In many of the American states, state associations of railway surgeons have been organized, and several large trunk lines have organized associations of Railway Surgeons. These bodies meet annually, choose officers and discuss papers and are composed mainly of the local Railway Surgeons of the locality under the dominion of the Association. Their chief value and importance is in the educational improvement of the Railway Surgeons of the United States by conference with each other, interchange of thought and experience and they have resulted in very valuable contributions to the literature of the science.

The papers contributed by the members of the various state and local societies of Railway Surgery in the United States during each year in the recent past would fill several large volumes and the mere enumeration of their titles and authors would be too extended for such a contribution as this.

If the National, State and other organizations thus contributing papers to the literature of Medico-Legal Surgery would name an editorial revising Commission with instructions to edit and publish all these papers for the benefit of both professions the volumes would be of very great interest and value.

The following are among the more prominent of these State organizations as organized in the following States: Namely New York, Florida, Iowa, Indiana, Ohio, Texas and West Virginia.

Among the more prominent organizations of the large trunk lines may be named that of the Surgeons of the Big Four Railway System; Chicago and Northwestern Railway System; Wabash Railway System; The Railway Pennsylvania System; The Plant System; Santa Fee System; The St. Joseph System; The Southern Railway System, and the Northwestern Railway Surgeons Association.

The Progress of Medico Legal Surgery.

The methods of Surgical practice since the last war in our country, (1861,) so far especially as it concerns Military and Naval Surgery have been marvelously changed.

In no branch of science has there been such stupendous changes and advances.

Surgery has become a more fixed and definite science in the past quarter of a century than in all the centuries before.

There has been a complete revolution in methods and in treatment by the Military, Naval and Railway Surgeon.

In 1861 a gun shot penetrating wound of the abdomen severing the intestines was regarded as almost certain to be fatal.

To day the Surgeon who lost such a case would be compelled to make an explanation or might be mulcted in damages in an action for malpractice if he did not do so satisfactorily.

The whole field of Anti-Septic Surgery has been changed.

Electricity.

Electricity has come to be the hand-maiden of the Surgeon and sheds light upon the darkest and most impenetrable problems that surround his path. The Roentgen ray has no use

any where at all comparable, to its magnificent contributions to Medico Legal Surgery.

The magic lantern, in the whole domain of Electric Therapeutical Surgery to-day, illumines the hand and the path of the Surgeon, and the splendor of its acheivements in abdominal surgery alone, are resplendent and read like the tales of the lamp of Aladdin.

With a view of obtaining the views of the most eminent surgeons upon the evolution of modern Medico Legal Surgery I addressed the following letter to Surgeon General Nichols Senn and Surgeon J. N. Hall, two of the most eminent American authorities, the one on Military Surgery and the other on gun shot wounds, and its other eminent surgeons.

MEDICO-LEGAL JOURNAL, OFFICE OF THE SECRETARY,
NEW YORK, May 16, 1898.

Dear Colleague:—I am announced to write shortly on the Progress of Medico-Legal Surgery, and I wish to touch on the more important changes that have occurred in Military Surgery, since the period of our Civil War in 1861. More especially in gun-shot wounds of the abdomen and the whole field of antiseptic surgery.

Will you please name four or five of the most important advances in modern military surgery in this intervening period?

The war on which we are now entering will make such an inquiry all the more interesting now; and your large experience will be of value.

I shall, of course, credit you with anything you furnish me.

Believe me, dear sir,
Very faithfully yours,
CLARK BELL.

Surgeon General Senn replies as follows:

CAMP TANNER, ILL., May 20th, 1898.

MR. CLARK BELL, 39 BROADWAY, NEW YORK.

Dear Mr. Bell:—The most notable improvements in Military Surgery since the War of the Rebellion consists of protecting the wounded by strict antiseptic precautions. The wounds made by the small calibre bullet will present features which will require extensive observations to determine whether they are more mortal than those inflicted by the large bullet. One of the important features in the war which faces us, will be the prompt treatment by operative measures of abdominal wounds, which I am sure will be the means of saving many a valuable life. My future headquarters will be with the Sixth Army Corps, Camp Thomas, Chickamauga, Ga.

Very truly yours,
N. SENN,
Lieutenant Colonel, U. S. V.

Surgeon J. N. Hall replied as follows:

DENVER, COL., May 20th, 1898.

HON. CLARK BELL, 39 BROADWAY, NEW YORK CITY.

Dear Sir:—The most important improvements in military surgery have been, I think, as follows:

The introduction of asepsis and antisepsis and consequent disappearance of the scourge of hospital gangrene, and, owing to healing by first intention, shortening of the time in hospital, and consequent increased efficiency of the surgical department.

Secondly, the wider application of resection of joints and saving of useful limbs in place of amputation. An improvement in this connection is the use of plaster of paris and similar dressings.

Thirdly, the introduction of stitching or uniting by means of the Murphy button, or otherwise, of wounds of the intestines.

Fourthly, improved means for checking hemorrhage in parenchymatous organs; as for example, the liver, kidneys and spleen, and in allowing a freer access to them because of the improved methods of operation and consequent improvement as to the mortality rolls after such wounds.

Yours very truly,

J. N. HALL, M. D.

Dr. J. Mount Bleyer is one of the most experienced of the Junior American Surgeons in Electro Therapeutical Surgery and his experiments with the Roentgen Ray are the best I have seen produced.

I addressed him a similar inquiry as to the advance in modern surgery by the use and application of electricity since the War of the Rebellion, of 1861.

His reply is as follows:

460 LEXINGTON AVE., NEW YORK, May 23, 1898.

CLARK BELL, ESQ.,

My Dear Sir:—You ask me to give to you the progress of the surgery of electro therapeutics since the period of the War of the Rebellion.

I should state them briefly as follows:

1. The eledtro cautery, which renders many operations bloodless.

2. The destruction of tumors by electrolosis, which is an complete atrophy of the tumor, cutting off the blood supply completely and successfully.

3. Electric illuminations by which the bladder, stomach, throat, ear, nose and in fact all the cavities of the body can be successfully examined and explored.

4. The X Ray which still in its infancy is one of the most marvelous aids to surgery.

5. Elertro diagnosis.

6. The treatment of certain forms of disease by various electrical contrivances as electro chemically disintegrating diseased tissues.

7. Electro motor powers with most marvelous results.

8. The useful effects of high tension currents.

9. The accurate doscage of electricity by means of delicate apparatus.

Yours very truly,

J. MOUNT BLEYER.

Chief Surgeon Granville P. Conn, of Concord, N. H., was the first Chairman of the Section on Medico-Legal Surgery of the Medico-Legal Society, and an authority of eminence and

distinction. His reply to a similar letter as to the evolution of railway surgery during the same period was as follows :

CONCORD, N. H., May 30th, 1898.

HON. CLARK BELL, Editor Medico-Legal Journal,
39 Broadway, New York, N. Y.,

Dear Sir:—Yours of May 26th is at hade, asking for the most notable advonces in the depar ment of surgery, especially in railway surgery.

In the first place, the department of railway surgery has been actually entirely evolved as department of general surgery since the War of the Rebellion. Second, the introduction of antiseptics in surgery, and the possibility of performing asceptic operations, has entirely come to the front since the close of the War of the Rebellion. Since the introduction of antiseptics, and the possibility of aseptic surgery, operators have been enabled to perform, with perfect impunity, an operation that was not considered feasible prior to 1861.

The opening of cavities, the resection of bones and internal anatomosis become matters of almost every day experience, and these were looked upon with especial disfavor in anti-bellum times. It is but natural to ask how much has been accomplished in so short a period. The answer is plain but significant, in the fact that it has all been brought about and made plain by hygiene, which takes cognizance of everything connected with medicine and surgery. It has pointed out that cleanliness and the destruction of disease germs, prior to operations, will insure almost perfect results, when proper hygienic measures have been introduced, and their principles thoroughly carried out.

Very truly yours, G. P. CONN.

THE INTERNATIONAL ASSOCIATION OF RAILWAY SURGEONS.

The annual meeting of this body was held at Toronto, July 6th to 8th, 1898,

The following officers were elected for the ensuing year:

President: Bruce L. Riordan, Toronto, Can.

Vice-Presidents: R. E. L. Kincaid, Bonham, Tex.; J. G. Hunt, Utica, N. Y.; J. L. Foxton, Huron, S. D.; W. Gunn, Clinton, Ont.; E. J. McKnight, Hartford, Conn.; C. F. Leslie, Clyde, Kan.; Hugh M. Taylor, Richmond, Va.

Treasurer: E. R. Lewis, Kansas City, Mo.

Secretary: Louis J. Mitchell, 73 Laflin Street, Chicago.

Executive Board: F. J. Lutz, St. Louis, Mo., Chairman; W. B. Outten, St. Louis, Mo.; J. B. Murphy, Chicago; J. H. Letcher, Henderson, Ky.; H. L. Getz, Marshalltown, Ia.; J. Alex. Hutchison, Montreal, Can., and the Ex-President, President, Treasurer and Secretary *ex-officio*.

The Presidential Address, by the retiring President, of Richmond, Va., was an able production.

The leading paper was by Division Surgeon Granville P. Conn, of Boston & Maine R. R., of Concord, N. H., entitled "*The Medico-Legal Significance of the Physical and Mental Examinations of Railway Employees.*"

It is a masterly presentation of the legal as well as the surgical side of the relation between the corporations, their employees and the public, in cases of railway injuries.

Dr. Conn also insists upon a high standard of physical qualities in every trainman.

We regret that we have not space for the entire paper, but its summary is stated as follows:

First. Railways are common carriers, and are, therefore, subject to common and statute law.

Second. The law holds them liable to the public for employing servants that are inefficient because of ignorance of their duties, or incompetent by reason of mental, moral or physical defects.

Third. Co-Servants that are injured by reason of the inefficiency or incompetency of a fellow servant have the same rights in court as the public.

Fourth. Any reform that will elevate the standard of excellency of the service, lessen the expenses for personal injuries, and increase the

average service of the rolling stock and roadbed, at once becomes a factor in increasing the net revenue of the corporation.

Fifth. With our professional knowledge of the great percentage of mental, moral and physical defects in men that would disqualify them from being accepted as recruits in the service of the United States army or the United States navy, are we not justified in calling the fact to the attention of railway managers?

The following papers were announced on the official programme:

FIRST DAY—Morning Session.

a. "The Claims Department of Our Eastern Railroads and its Relation to Medical Organizations." By E. J. Rich, Esq., of Boston.

b. "Physical Examination of Railroad Employees and its Medico-Legal Significance." By Surgeon G. P. Conn, M. D., of Concord, N. H.

c. "Ideal results in Major Operations." By Surgeon P. Daugherty, M. D., Junction City, Kansas.

d. "Surgical Gangrene, with Report of a Case." By Surgeon G. W. Hitt, M. D., of Pittsburg, Pa.

Afternoon Session.

a. "Address." By B. B. Osler, Esq., Q. C. of Grand Trunk Railway.

b. "Fever and the Fever State. By F. C. Vander Voort, of Bloomington, Ill.

c. "Conservatism." By Surgeon W. H. Coffey, of Parkville, Md.

d. "Laceration of the Brain from Railway Injuries." By Howard J. Williams, of Macon, Ga.

e. "Cerebral Contusions." By A. J. Bouffleur, M. D., of Chicago.

f. "Co-operation between Health and Railway Authorities as to Transportation of Dead Bodies." By Dr. P. H. Bryce, of Toronto, Ontario.

g. "Case of Lightning Stroke and Fracture at Base of Skull." By Surgeon C. F. Leslie, of Clyde, Kansas.

h. "Surgery of Tendons in Infected Regions." By Surgeon Francis B. Fitt, of Muskogie, I. T.

Addresses by Hon. Geo. Ross, LL. D., Minister of Education, Ottowa, Hon. John Shaw, Mayor of Toronto, James Thornton, M. D , Toronto.

Reply by the President, Surgeon George Ross, of Virginia.

SECOND DAY—Morning Session.

Shock —By Dr. F. J. Lutz, of St. Louis, Mo.; Dr. Wyatt Johnson, of Montreal, Canada; Dr. Geo. W. Crile, of Cleveland, O.; Dr. H. L. Getz, Marshalltown, Ia.; Dr. James H. Letcher, of Henderson, Ky.; Dr. S. R. Miller, of Knoxville, Tenn.; Dr. Hugh M Taylor, of Richmond, Va.; Dr. J. G. Tuten, —— ——; Dr. De Saussure Ford, of Augusta, Ga.

Afternoon Session.

a. "Traumatic Neurosis." By W. C. Tarnague, of Atlanta, Ga

b. "Prevention of Sloughing of Heel in Symes Operation." By M. W. O'Brien, of Alexandria, Va.

c. "The Pelvic Brim in Disease of the Pelvic Organs." By A. L. Fulton, M. D., of Kansas City, Mo.

d. "Progress of Medico-Legal Surgery." By Clark Bell, Esq., LL. D., of New York, Honorary Member of the Association.

e. "Medical Officers of Railroads and their Relation to the Legal Department." By Hon. B. B. Munford, Division Counsel Southern Ry. Co.

f. "Spinal Traumatism as a Symptom of Insanity." By Dr. S. C. Benedict, of Athens, Ga.

g. "Common Sense in Surgery." By Dr. G. R. Dean, of Spartansburg, S. C.

h. "Asepsis and Antisepsis." By S. B. Crawley, of Saffney, S. C.

i. "First Aid Classes of Instruction to Railway Employees." By C. R. Dickson, of Toronto.

THIRD DAY.

a. "Anæsthetics." By C. P. Gordon, M. D., of Gallon, Ga.

b. "Operation for Senile Cataract." By J. G. Brodnax, M. D., of Greensboro, N. C.

c. "Urenic Coma following Injury." By W. D. Hilliard, of Asheville, N. C.

A full and detailed account of the proceedings of the Association appears in the *Canadian Journal of Medicine and Surgery*, splendidly illustrated.

Dr. Riordan, the newly elected President, of Toronto, is a surgeon of high character.

The *Railway Surgeon* has contracted to continue as the organ of the Association another year, but Chief Surgeon W. B. Outen, of St. Louis, who has been its editor since the retirement of Dr. R. Harvey Reed, retires from its editorial chair, and is succeded by Louis J. Mitchell, M. D., of Chicago, his late assistant, who is made Secretary of the Association.

AMERICAN ACADEMY OF RAILWAY SURGEONS.

The fifth annual meeting of this body will be held at the Auditorium, Chicago, Ills, on October 5th, 6th and 7th, 1898.

The following papers are announced on the preliminary programme:

"Anæsthesia." R. H. Cowan, M. D., Assistant Chief Surgeon N. and W. R. R., Radford, Va.

"Traumatic Injuries of Peripheral Nerves." D. S. Fairchild, M. D., Surgeon C. and N. W. R. R., Clinton, Iowa.

"Injuries of the Genital Organs." Milton Jay, M. D., Chief Surgeon C. and E. I. R. R., Chicago Ill.

"The Radical Cure of Hernia." W. J. Mayo, M. D., Surgeon C. and N. W. R. R., Rochester, Minn.

"Concealed Meningeal Hemorrhage." H. Reineking, M. D., Surgeon C. and N. W. R. R., Sheboygan, Wis.

"The Interment of Ericson." W. J. Galbraith, Omaha, Neb.

"Physical Examination for Railway Service." J. F. Pritchard, M. D., District Surgeon C. and N. W. R. R., Manitowoc, Wis.

"The Hygiene of Railway Injuries." G. P. Conn, M. D., Chief Surgeon C. and M. R. R., Concord. N. H.

"Conservatism in Railway Surgery." H. Hatch, M. D., Surgeon C. B. and Q. R. R., Quincy, Ill.

President's Address: "The Higher the Order of Railway Surgeons the Greater the Protection to the Employe, the Passenger and the Company." R. Harvey Reed, M. D., Assistant Surgeon U. P. R. R., Rock Springs, Wyoming.

"Convenient First Dressing of Fractures with Samples." E. H. Trickler, M. D., Surgeon T. and O. C. R. R., Cutler, O.

"Surgical Treatment of Some Varieties of Disease of the Prostrate and Seminal Vesicles," G. E. Benninghoff, M. D., Surgeon W. N. Y. and P. R. R., Bradford, Pa.

The following Fellows of the Academy have promised papers, but up to date have not furnished subjects for the same:

A. D. Bevan, M. D., Chicago, Ill.; Allen Staples, M. D., Dubuque, Ia., LeRoy Dibble, M. D., Kansas City, Mo.; C. K. Cole, M. D., Helena, Mont.; George W. Crile, M. D.. Cleveland O.

SURG. GENL. R. HARVEY REED, M. D., President,
Rock Springs, Wyoming.

D. C. BRYANT, M. D., Secretary,
Omaha, Nebraska.

PSYCHOLOGICAL.

This Department is conducted with the following Associate Editors:

Judge Abram H. Dailey, Brooklyn. N. Y.
Prof. A. A. D'Ancona, San Francisco, Cal.
H. S. Drayton, M. D., N. Y.
M. Ellinger, Esq., N. Y. City.
Dr. Havelock Ellis, London.
Wm. Lee Howard, M. D., Baltimore, Md.
Thomson Jay Hudson, Esq., Wash., D. C.
Henry Hulst, M. D., Grand Rapids, Mich.
R. J. Nunn, M. D., Savannah, Ga.
A. E. Osborne, M. D., Cal.
Jas. T. Searcey, M. D., Tuscaloosa, Ala.
U. O. B. Wingate, M. D., Milwaukee, Wis.
Prof. W. Xavier Sudduth, Chicago, Ill.

as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1 50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico Legal Society on an annual subscription of $1 50, payable in advance and receive the MEDICO-LEGAL JOURNAL free. The officers for 1898 are as follows:

Chairman.

PROF. W. XAVIER SUDDUTH, OF CHICAGO, ILL.

LEGAL AND SCIENTIFIC.

Vice-Chairmen.

Clark Bell, Esq., of New York.
Rev. Antoinette B Blackwell, of N. Y.
Harold Browett, Esq., Shanghai, China.
C. Van D. Chenoweth, Worcester, Mass.
Judge Abram H. Dailey, of Brooklyn.
Moritz Ellinger, Esq., of New York
Rev. Phoebe A. Hanaford, of New York.
Thomson Jay Hudson, Esq., Wash'n, D. C.
Prof. Thomas Bassett Keyes, of Chicago.
Sophia McClelland, of New York.
Mrs. Jacob F. Miller, of New York.

MEDICAL.

Vice-Chairmen.

James R. Cocke, M. D., of Massachusetts.
T. D. Crothers, M. D., of Hartford, Conn.
F. E. Daniel, M. D., of Austin, Texas.
H. S. Drayton, M. D., of New York.
Wm. Lee Howard, M. D., of Baltimore, Md
Henry Hulst, M. D., Grand Rapids, Mich.
R. J. Nunn, M. D., of Savannah, Ga.
A. E. Osborne, M. D., of Glen Ellen, Cal.
Jas. T. Searcey, M. D., of Tuscaloosa, Ala.
U. O. B. Wingate, M. D., Milwaukee, Wis.

Mrs. Mary Louise Thomas. M. D., of N. Y.

Secretary and Treasurer.

CLARK BELL, ESQ., OF NEW YORK.

Executive Committee.

CLARK BELL, Esq., Chairman.

CAROLINE J. TAYLOR, Secretary.

M. Ellinger, Esq.
S. B. W. McLeod, M. D.
Judge A. H. Dailey.
Ida Trafford Bell, of N. Y.
Geo. W. Grover, M. D.
H. W. Mitchell, M. D.

The following persons have united with the Psychological Section since last announcement:

Dr. J. A. Maryson, 95 Stanton Street, New York; Dr. H. Solotaroff, 251 E. Broadway, New York; Dr. Emilie Mary, Thun, Switzerland; Mrs. Laura Gould Weld, Paris, France.

THE CIGARETTE. DOES IT CAUSE INSANITY?

BY CLARK BELL, ESQ., LL. D.

(*Continued from March number, 1898.*)

In the prior part of this paper, which appeared in the March number, I had made my inquiry broad enough to embrace the question of the adulteration of the cigarette. There seems to be no reason to continue this branch of the inquiry farther, and I decided to change the form of the letter sent out to neurologists and Alienists, and confine the issue to the simple questions involved in the relation of the cigarette to insanity.

I cite such replies as I have received from prominent scientific sources in response to my original inquiry, and also embrace such as have been received from others in response to a letter of which the following is a copy:

NEW YORK, April 23rd, 1898.

MY DEAR SIR AND COLLEAGUE:—I have the honor to send you a copy of that part of the paper I am preparing that appeared in the March number of this Journal and the paper of Mr. Garrison, entitled "A Brief for the Cigarette."

The issues, I may fairly claim, are narrowed from those I at first submitted as to the adulteration of the cigarette.

There does not seem to be any foundation for the popula · prejudice as to its manufacture or the use of other substances than tobacco and paper. The single issue about which I desire your view is the relation of the cigarette to insanity.

Does the use of the cigarette cause insanity?

In such a discussion the mere opinions of observers or their prejudices, pro or con, are not asked, unless based on actual facts, traced or observed.

I shall feel obliged for your views as early as possible, to complete my Inquiry. Very faithfully yours,

CLARK BELL.

T. Duncan Greenlees, M. D., is one of the most promi-

nent alienists of the British colonies in the southern hemisphere. He writes:

GRAHAMSTOWN ASYLUM, SOUTH AFRICA,
GRAHAMSTOWN, February 28, 1898.

Dear Sir:—I have read the brochure, "A Brief for the Cigarette," by W. H. Garrison, Esq , which you were good enough to send me. I must confess, that after fourteen years' experience of asylum practice,—three of which I have been Medical Officer to an institution for the care of children of week intellect,—I am unable to recollect a single case in which the mental disease was ascribed to to "cigarette smoking," and the well-known fact, that the physique of the present race of mankind compares very favorably with that of his ancestors, who did not enjoy the luxury of cigarette smoking, is satisfactory proof to my mind that this form of indulgence has no more influence in deteriorating the race than many others regarding which there is no chronic outcry.

I believe tobacco, in any of its forms, to be injurious, if taken *in excess*, but then so are many articles of food! and I would never condemn the use of food because, forsooth, someone died of eating too much.

I am yours faithfully,
T. DUNCAN GREENLEES, M. B. Edin., F. R. S. E.

Prof. Thos. Bassett Keyes is editor in chief of the Journal of the American Psychological Medical and Surgical Society, and is professor of suggestive therapeutics, Harvey Medical College, clinic of surgery, Illinois Medical College, Chicago. He writes as follows:

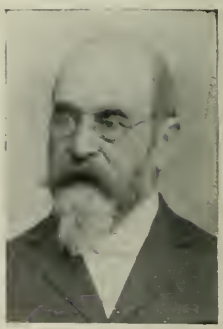
CHICAGO, March 15, 1898.

HON. CLARK BELL,

Respected Colleague:—In reply to your favor of recent date, in regard to the cigarette question, would say that it is evident that the excessive smoking of tobacco leads to impairment of the health in some people. It has been thoroughly proven that nicotine has a vaso-constrictive action. It produces disturbances in various organs. The nerve centers show signs of ischæmia, cerebro spinal irritation, causing headache, with vomiting, irritability of temper, impairment of memory, morning fatigue, inaptitude for work, and many other symptoms and conditions particularly irritability of certain nerves. Acting on the sympathetic nervous system, varying with the sensibility or acuteness of the person, the class which are most apt to smoke to excess are those who have a leaking of life force, through some pathological condition.

On the other hand, there are a large majority of persons who can tolerate the smoking of tobacco in large quantities, and perhaps the generations of smokers that have preceded have not and will not have any noticeable effect upon posterity.

I regard the ordinary brands of cigarettes, as made from the mild tobaccos, the least harmful of all the ways of using tobacco, and in those few individuals who have become insane while smoking, I would look for some more probable cause, or the cause of the excessive smoking,



J. H. KELLOGG, M. D.,
Battle Creek Mich.

ALEXANDER WILDER, M. D.,
Newark, N. J.

Dr. Y. R. LE MONNIER,
Coroner of New Orleans, La.

GUSTAV BOEHM, Esq.,
Hoboken, N. J.

ARTHUR S. WOLFF, M. D.,
State Quarantine Officer, Brownsville, Texas.

FRANK WARD ROSS, M. D., A. M., Ph. D.,
President Elmira Academy of Medicine, Elmira, N. Y.

as the demand which the sympathetic system makes in order to compensate for some pathological, though perhaps not apparent, condition.

Very sincerely,

THOS. BASSETT KEYES, M. D.

Prof. W. J. HERDMAN is Prof. of nervous and mental Diseases in the University of Michigan, at Ann Arbor, and a Neurologist of high character: He writes as follows:

ANN ARBOR, MICH., March 25 1898.

CLARK BELL, ESQ.,

Dear Sir:—I know of no instances of insanity being caused either directly or indirectly by the use of the cigarette.

Very truly yours,

W. J. HERDMAN.

C. K. CLARK, M. D., is Superintendent of the Rockwood Hospital at Kingston, Ontario, and a man of extended experience: He writes:

March 24th, 1898.

CLARK BELL, M. D. 39 Broadway New York.

Dear Sir:—In reply to yours of the 22nd inst, I would say that I cannot find an authentic record of any case in which insanity was directly produced by the use of the cigarette, although in two cases in our records, the excessive use of tobacco was assigned as a cause of insanity. In these cases there was good reason to suppose that other causes existed as well. I have gone over our records very carefully with the above results.

Yours truly,

C. K. CLARK, Medical Sup't.

Prof. S. E. Chaille, of the medical department, Tulane University of Louisiana, is a high authority. He writes:

NEW ORLEANS, March 24, 1898.

MR. CLARK BELL,

My Dear Sir:—I have had very little experience with the insane, but I have never known, nor ever heard of a case due to smoking cigarettes.

I would advise you to write in this state to some who have seen much more of the insane than I have, viz: to Dr. E. T. Sheppard, 124 Baronne Street, New Orleans; Dr. Y. R. Le Monnier, 1124 N. Rampart Street, New Orleans; Dr. G. A. B. Hays, Insane Asylum, Jackson, La.

Yours very truly,

S. E. CHAILLE, M D.

Dr. Geo. A. B. Hays is an eminent alienist, and is superintendent of the State Insane Asylum of Louisiana. He replies as follows:

JACKSON, LA., April 11, 1898.

CLARK BELL, ESQ., Medico-Legal Journal,
39 Broadway, N. Y. City,

Dear Sir:—I have read Mr. Garrison's "Brief for the Cigarette," with a great deal of interest, and in reply to your questions, will say;

1st. I know of no evidence to show that anything is used, other than tobacco, that is deleterious to the health of the smoker of cigarettes.

2nd. The use of cigarettes has never, to my knowledge, caused insanity or impaired the mind, even in the young. I have practiced medicine in the parish of Plaquemines, below New Orleans, for more than twenty years, among a French Creole population much addicted to cigarette smoking. It is a very common thing there for boys not more than five or six years of age to smoke cigarettes, and that too without concealment. The parents permit it, and often teach the very young to smoke, and think it funny. With old and young the cigarette is much more extensively used there than either the pipe or the cigar. I know of not one instance in which mental impairment or insanity could be traced to the cigarette habit.

3rd. There is no law in Louisiana restricting the sale of cigarettes.

I have now in this asylum 1,022 patients, of whom 544 are males. There is not one whose insanity can be attributed to the use of cigarettes, even in the remotest degree. The records of this institution do not reveal one such case.

Our mutual friend, Dr. S. E. Chaille, told me he had referred you to me. With regards,

Yours very truly,
GEO. A. B. HAYS, M. D., Supt.

Dr. Y. R. LeMonnier is a high authority, and is Coroner of the city of New Orleans, and is ex-officio City Physician of that city. He is and has been for years a prominent friend of the Medico-Legal Society. He replies as follows:

NEW ORLEANS, April 12, 1898.

CLARK BELL, ESQ., 39 Broadway, N. Y. City,

My Dear Sir:—I beg to acknowledge the receipt of your very interesting communication of the 28th of March, 1898, on the subject of the "Relation of the Cigarette to Insanity," and also to apologize for my slowness in answering, which is due to a pressure of occupations not permitting any delay.

Ever since 1881, I have been, more or less, intimately connected with the examination of the indigent (and other) insane of this city, In nearly seven out of ten cases tobacco, with or without the abuse of alcohol, has been brought forth as the cause of insanity, and very often the cigarette was brought forth as being solely the cause. While I have, as many others, found alcohol to be often the direct cause of insanity, I have so far completely failed to find a single case where I could even *suspect* the cigarette of being the cause of insanity, in fact, I have to-day come to the conclusion that the cigarette has never caused insanity. I

do not use tobacco in any shape, have no love for it, and have always advised my patients against its use, but I must say have *never* known it to cause insanity.

With my best wishes for your future prosperity, I remain, sir, in haste,

Yours truly,

Y. R. LEMONNIER, M. D.,
Coroner.

Dr. S. E. Smith is medical superintendent of the Eastern Indiana Hospital for the Insane, at Richmond, Indiana. He writes as follows:

RICHMOND, May 17, 1898.

MR. CLARK BELL, New York,

Dear Sir:—Responding to your inquiry of April 23, I beg to say that in my experience, after years in the care and treatment of the insane, I have not seen a case in which mental disorder was caused by the use of cigarettes. I recall one patient, admitted to this hospital during the past year, whose disease was attributed by the public prints to the excessive use of cigarettes. The young man was found to be feeble-minded from infancy, and was discharged as "not insane."

Yours respectfully,

S. E. SMITH, Med. Supt.

Dr. L. V. Guthrie is superintendent of the second Hospital for the Insane at Spencer, West Va. His reply is as follows:

SPENCER, W. Va., March 17, 1898.

CLARK BELL, Editor Medico-Legal Journal,
39 Broadway, N. Y.,

Dear Sir:—Your letter of Feb. 28 received, and in reply will state that I do not know of any authentic case of insanity caused by the cigarette habit.

Yours truly,

L. V. GUTHRIE, M. D.,
Superintendent.

Dr. J. Percy Wade, superintendent of the State Hospital for the insane at Catonsville, Maryland, a high authority, writes in response to my later letter as follows:

CATONSVILLE, MD., May 31st, 1898.

CLARK BELL, ESQ., Medico-Legal Journal, New York, N. Y.,

Dear Sir:—I am in receipt of your letter with the article of Mr. Garrison's, on the Use of the Cigarette, enclosed.

In my experience with the insane, which covers several thousand cases, I have never seen a case of mental disorder where the cause could, with the slightest degree of possibility, be traced to the excessive use of the cigarette.

In only one case was the cause of the mental outbreak ascribed, by the friends, to be due to excessive indulgence in cigarrette smoking, but upon

investigation it was found that the patient was of a decided neurotic temperament, and had been eccentric and subject to psychical disturbance some time before he began the use of cigarettes.

I consider all forms of tobacco injurious in the young and undeveloped, but the cigarette not more harmful than the other varieties of the weed.

Very truly yours,

J. PERCY WADE, Superintendent.

Carl Sextus is an authority on psychological subjects relating to the mind. His reply is as follows:

VICTOR, COLO., June 2, 1898.

CLARK BELL, ESQ., 39 Broadway, New York,

Dear Mr. Bell:—I have safely received the two pamphlets you sent me recently.

You have treated the cigarette subject very ably, and proven beyond any doubt that its dangerous influences on the human organism have heretofore been greatly over estimated.

Hoping that you and your family are well, I remain

Yours very respectfully CARL SEXTUS.

Prof. Dr. Herman Kornfeld, of Grotkau, Silesia, is one of the most eminent men in mental medicine on the continent of Europe. He was Vice-President for Silesia of the International Medico-Legal Congress of 1889 and of 1893, and of the Medico-Legal Congress of 1895, in New York, and has been for many years a Corresponding Member of the Medico-Legal Society. He writes, in our own language, as follows:

GROTKAU, Silesia, May 26, 1898.

Physikus Clark Bell, Esq.,

DEAR MR. PRESIDENT: It will be not the least of your lasting merits about Legal Medicine that you have caused an enquiry about cigarettes. This will enlarge the question of tobacco-smoking generally.

I never observed or knew of diseases of the mind unquestionably to be referred to the abuse of cigarettes. I am sure many persons have escaped insanity by smoking. But here, in Germany, the use of Virginia tobacco is small, increasing as cigarette smoking has slowly done. Turkish (Russian, Bosnian, Serbian, Macedonian) tobacco is used here almost solely. Egyptian tobacco does not exist here. It is only that Turkish tobacco, which is fabricated with special care in Egypt, where none is produced. There is certainly a difference between American and Turkish tobacco, not only in regard to the feeling of pleasure, but in their effects on the physical, nervous system, and even on the bowels. I am a passionate smoker of Turkish (that is, Crimean) tobacco. Have not until now found the same feeling of ease in Virginia cigarettes. The cigarette fulfils a momentary satisfaction for the craving for tobacco, so that it is not necessary to use the quantity contained in a cigar. The tobac-

co in it is far less compact, has greater superficies, and is of higher temperature, which is many times rendered to the mouth. I also mean that the smoke from it realizes this in a more refined form, but more surely when cigarettes are bought not ready made, but fabricated by the smoker himself with tobacco he has retained not in a dried state, and with exquisite paper.

It would be very desirable, if your inquiry would give rise to statements from the Continent, especially from Turkey and Russia. I, by the bye, never have been able to solve the question, why fine Turkish tobacco is so much different, if not better, than that of Virginia or Havana. Is Turkey not the original or at least also a country producing genuine tobacco, without having it first received from America? Could it be, that some product reaches its highest development in a country where it has been imported? I conclude, without further remarks about the beneficial properties of the cigarette and tobacco generally. It is only a remote analogy smoking has with coffee and tea, and alcohol, at least wine, has to be regarded from quite another standpoint.

The ideal of mankind is to be reached, and has been reached in a few men and woman, who have not smoked nor drunk coffee. Now, it seems incomprehensible to a not small part of the educated classes, how Shakspere, Ariosto, not to mention the holy men of the book of books, could have written without tobacco.

In considering the effects of tobacco it is, however, not sufficient to observe and state the effects on the smoker, but, as in alcohol, those on their offspring. With two words: cigarettes (and tobacco) are a remedy. As such, they are useful for some, hurtful for others. Better if we could do without them. And if cigarettes are to be used, I prefer them far above cigars.

Since 1863 I have been official Expert in Legal Medicine.

With high regard,

HERMAN KORNFELD.

Dr. Bigelow T. Sanborn, is Superintendent of the Marine Hospital for the Insane, and has been for many years. His opinion is as follows:

AUGUSTA, ME., Jan. 29th, 1898.

Hon. Clark Bell, No. 39 Broadway, New York City:

My Dear Sir:—I desire to acknowledge the receipt of a copy of a paper, entitled "A Brief for Cigarettes," read by Mr. W. H. Garrison before a recent meeting of the Medico-Legal Society and forwarded me through your kindness. I read it with much interest, and in many respects I must endorse the trend of his paper. I think the number of cases of insanity attributed to cigarette smoking has been very much over-estimated. That the effects of the nicotine in cigarettes does not produce insanity in any case I have serious doubts. I believe that mental trouble may be excited and produced by any excess, particularly where toxic effects of the brain are produced. I do not recall but one case that has

come under my observation where it was reasonably certain that the disease was caused by cigarette smoking.

Very Truly Yours,
BIGELOW T. SANBORN.

Dr. F. C. Winslow, Superintendent of the Illinois Cental Hospital for the Insane, at Jacksonville, Ill., a high authority, replies as follows:

JACKSONVILLE, Jan. 30th, 1898.

Mr. Clark Bell, Editor Medico-Legal Journal, 39 Broadway, N. Y.:

Dear Sir:—As successor of Dr. Watson, to the office of superintendent of this Institution, your recent letter to him containing the paper read by Mr. W. H. Garrison, entitled "A Brief for the Cigarette" came into my hands.

I am not a member of the Medico-Legal Society, but nevertheless my experience may be of interest as adding to the general fund of knowledge.

I myself, smoked cigarettes for twenty years, but discontinued their use, and learned to smoke cigars, because the inhaling of the tobacco smoke produced an irritation of the throat, and a cough, which has since disappeared. I always maintained that, apart form the mechanical irritation of inhaling hot tobacco smoke, that cigarettes were the less harmful mode of smoking. I regarded the tobacco as pure and mild, and I believe that the injurious effects of a small quantity of tobacco quickly consumed as in a cigarette, are less noticeable than in a larger quantity slowly consumed, as in a cigar. My chief objections to the cigarette, is its cheapness, which is a constant temptation to little boys to smoke before they should. So far as the question of the effect of the use of the cigarette upon the mental and physical health of the consumer, I can say, that after an experience of twenty years in this Institution I have never known a case of insanity traceable to the use of cigarettes. I have often seen such cases reported in the papers, but am inclined to think, that the excessive use of tobacco, which is often seen in incipient cases in some forms of insanity, is a symptom of the general excessive nervous exaltation, rather than the cause of it. There is a large per cent. of the consumers of tobacco, the Turks, Italians, Spaniards, Mexicans, and probably others, to whom the cigarette is the most common form of consumption. They are no more subjected to nervous diseases, than people who smoke cigars or pipes.

Yours Very Truly,
F. C. WINSLOW, Supt.

Dr. Edward French, Superintendent Massachusetts Medfield Insane Asylum, replies as follows:

MEDFIELD, Jan. 31, 1898.

Mr. Clark Bell, Medico-Legal Journal, 39 Broadway, New York City:

Dear Mr. Bell:—Your letter of January 20, asking my opinion

regarding the smoking of cigarettes, and a criticism on the essay by W. H. Garrison, is received.

I have known two cases of alleged insanity in boys from the use of cigarettes. In both cases, an inordinate number were smoked and inhaled. I have no doubt that their insanity was wholly or in part due to this habit. Both of these cases were suffering from middle ear disease, and I have known quite a number of cases of this due to cigarette smoking.

The cigarette, if reasonably used, is no more harmful than any other form of tobacco smoking, with inhalation. In proof of this our neighbors in Mexico and Central America use tobacco in this form freely, and in no other way, but their indulgence is moderate. I have never known of any more harmful effects from the use of tobacco in these countries than in our own, which proves to me that it is not the form, but the amount of smoking and inhalation that is poisonous. I think the cigarette is more harmful to the young because it seems a mild smoke, and consequently boys are more tempted to use cigarettes than cigars or pipes. It is for this reason that they are especially dangerous to adolescents.

Very Truly Yours,
EDWARD FRENCH, M. D.

Dr. Geo. S. Adams, was at the session of the Society, when Mr. Garrison read his paper, his reply was as follows:

WESTBOROUGH, MASS., Feb. 7, 1898.

Clark Bell, Esq., Secretary of the Medico-Legal Society, No. 39 Broadway, New York, N. Y.:

Dear Sir:—The copy of the paper read by Mr. W. H. Garrison at the November meeting of the Medico-Legal Society, is at hand I was also present at the meeting and heard it read.

As I am not a user of tobacco in any form, I am probably competent to express an opinion as between the use of the cigarette and other forms of tobacco, but I do not care to express an opinion, but will give you simply these facts, that in thirty-eight hundred patients admitted to this hospital, in eleven years, but three young men have come in with cigarette smoking given as the cause of their mental condition. In half a dozen others there has been an ascertained history of excessive use of cigarettes, not a very great number. On the other hand, about seventy per cent. of all male patients admitted, use tobacco in some form, either chewing or smoking. I am, Very sincerely,

GEO. S. ADAMS, Supt.

Superintendent C. B. Burr, of the Hospital for treatment of Nervous and Mental Diseases, a physician of large experience and of high standing, replies as follows:

FLINT, MICH., Jan. 24, 1898.

Mr. Clark Bell:

Dear Sir:—Your letter of the 20th instant is received. I have

read the reprint, "A Brief for the Cigarette," with much interest. I am inclined to think that the effects of cigarette smoking and of pipe or cigar smoking are somewhat different. Certainly, in my experience, circulatory disturbances (tachycardia and palpitation) are more apt to follow the former than either of the other two. This may arise from—first, inhalation; second, the availability of the cigarette, its convenience for smoking in leisure moments and the consequently larger consumption. I am unable to controvert the author's conclusions as to the direct effects of the cigarette. He seems to be well fortified in the position he has taken. I am wholly in sympathy with what he has to say regarding the prejudicial effects of tobacco upon the young and feel that cigarettes are accountable for much of this harm because of their inexpensiveness and the ease with which they are obtained. While all this is true, however, and the evil probably by no means small, I am compelled to say that in a long experience in the treatment of insane and nervous patients, I have not found any case which was traceable solely to cigarette smoking.

Very Truly Yours,
C. B. BURR, Medical Director.

Dr. H. E. Allison, the distinguished Superintendent of the Matteawan State Hospital, at Fishkill Landing, gives brief but interesting information on the subject. He replies as follows:

Clark Bell, Esq., Medico-Legal Journal, 39 Broadway, New York City, N. Y., U. S. A.

FISHKILL LANDING, Jan. 21, 1898.

Clark Bell, Esq., 39 Broadway, New York, N. Y.:

Dear Sir:—We herewith acknowledge with pleasure the paper entitled "A Brief for The Cigarette."

Very few of our admissions are boys under the age of 18 years, and furthermore, receiving them as we do, from the various penal institutions, they are too much deranged mentally for us to acquire any satisfactory history as to the habit of cigarette smoking. We have a few cases who have been addicted inordinately to the habit, but the number is extremely small.

Yours Very Truly,
H. E. ALLISON, Medical Supt.

Dr. W. L. Worcester, is assistant physician at Danvers Lunatic Hospital, at Asylum Station, Mass., an able observer and careful student. He replies as follows:

January 22, 1898.

Clark Bell, Esq., 39 Broadway, New York.:

Dear Sir:—I don't know that I can give you much light on the cigarette question. I can make no comparison between various forms of tobacco from personal experience. I know of no reason to suppose that cigarettes contain any injurious ingredient except

tobacco, and have the impression that if they produce any more injurious effect than tobacco in other forms used by the same person, it is on account of the common practice of inhaling the smoke.

Yours Truly,

W. L. WORCESTER.

Dr. J. G. Rogers, is Superintendent of the Northern Indiana Hospital for the Insane, at Logansport, Indiana. His communication is of great interest and importance on the present inquiry. He replies as follows:

LOGANSPORT, IND., Jan. 22nd, 1898.

Clark Bell, Esq., No. 39 Broadway, New York, N. Y.:

Dear Sir:—In response to your circular letter of the 19th, will state that the population of Northern Indiana is not much given to cigarette smoking, and the number of inmates in this hospital who have had this habit is small. I have not had time to review the paper which you have enclosed very thoroughly, but will take the present occasion to state that I know of no instance in my clientele in which insanity has been induced directly and solely by the cigarette habit. An allegation has been made to that effect in three or four cases within the last few years. In only one, however, did I even think that it was a factor in the causation of the mental break-down. In this particular instance, the indulgence was extraordinary and without doubt exercised an important detrimental effect. The condition was that of acute mania, recovery was exceedingly slow, and I feared the supervention of dementia. At the end of a year, however, recovery ensued, and the boy was discharged and has done well now for several months on the outside, not having resumed the habit.

Respectfully Yours,

J G. ROGERS, Medical Supt.

Dr. F. W. Draper, of Boston, Medical Examiner and Editor, a high authority, says:

February 1, 1898.

Clark Bell, Esq., Editor Medico-Legal Journal:

My Dear Sir:—It is the abuse, and not the reasonable use, of the cigarette which is objectionable; and I include in the abusive treatment of it, not only the very frequent smoking of the cigarette but the inhalation of the smoke. I do not know of any instance in which impurities have been found in the tobacco or the wrappers. I have heard of instances, but have never personally observed them, in which grave damage to the nervous system and to the heart resulted from intemperate cigarette smoking.

Yours Very Truly,

F. W. DRAPER.

Among English authorities whom I consulted, I give

the reply of Dr. James Shaw, an alienist of distinction, of Liverpool, England, who replies as follows:

310 KENSINGTON, LIVERPOOL, ENGLAND, July 13, 1898.

DEAR SIR:—In reply to your question, "Does the use of the cigarette cause insanity?" I can only say, that during twenty-eight years of medical practice, asylum and private, I have never seen a case of insanity so caused. Yours faithfully,

JAMES SHAW.

Dr. A. H. Newth, late Medical Officer to the Sussex County Asylum, England, a gentleman of large experience, says in response to my question:

HAYWARDS HEATH, ENGLAND, June 24, 1898.

Clark Bell, Esq., Medico-Legal Journal, New York.

DEAR SIR:—During my experience in lunacy practice for the past thirty years, I have never met with a single case that could by any possibility be attributed to smoking tobacco in any form.

As in most cases of insanity there is a want of moral control, it is not unreasonable to expect that where there is mental weakness, a tendency to excessive indulgence in tobacco, spirits, venery, etc, is constantly to be wet mith.

This is frequently a mistake that many writers make, to look upon the excess as a *cause*, instead of as a sequence of insanity.

Believe me yours truly,

A. H. NEWTH, M. D.

In a recent conversation with Dr. Wm. Orange, of London, formerly Superintendent of the Broadmoor Asylum for Lunatic Criminals, he stated:

That he had received my circular letter, and that he had never known a case of insanity which could be said to have been caused by the use, or even the abuse, of the cigarette.

In closing the discussion opened by this paper, I feel it my duty to say that I have received replies of great cogency and value from many eminent Alienists and Neurologists, who have given strong testimony as to the evils resulting from the use and abuse of tobacco, which would be of deep interest in an inquiry upon that branch of the subject. Among these I may mention, without intending to be invidious, Dr. N. S. Davis, the veteran Neurologist, of Chicago; Dr. T. D. Crothers, the Editor of the Journal of Inebriety; Dr. Daniel Clark, the Superintendent of the Hospital for the Insane at Toronto, Ontario; Dr. J. H. Kellogg,

Superintendent of the Sanitarium and Hospital for the Insane at Battle Creek, Michigan, and others.

They illustrate what Mr. Garrison not only concedes, but states in a most vigorous manner,—the evils resulting from the use as well as the abuse of tobacco.

But they have been foreign to the issues raised in the present inquiry.

For my own part, I have not used tobacco since my student days, and I am strongly prejudiced against its use.

In common with the majority of men I had accepted, but, I confess, without any evidence, the idea that the cigarette itself was a dangerous preparation of tobacco that had been especially prepared so as to be most attractive to the taste, and that it contained deleterious drugs inimical to health.

I cannot now recall the slightest evidence to support this opinion, but I surely believed it, and however it originated, I feel certain that such a belief was common and almost universally entertained.

It was also believed by me, that the cigarette, *per se*, was harmful to the brain, and I had almost come to regard its excessive use as a factor in the causation of insanity. The sensational press frequently asserted the excessive use of the cigarette as a constant cause of mental degeneracy, especially in the young; and such an idea had gained a foothold in circles regarding themselves as well informed. Enough was said and believed to raise a hue and cry, and to place it under the ban, and the legislatures of most of the states were asked to adopt stringent laws restricting the sale of cigarettes, especially to minors, on the assumption that it was a menace to the mental integrity of the user.

The time had come when, in my opinion, a scientific inquiry should be raised :

1. As to the adulteration of the cigarette, and its probable existence, and
2. Whether it did cause insanity?

Among all the replies, I have only found one superintendent of an asylum for the insane who answered my inquiry, as to insanity, in the affirmative, and I am not at liberty to give his name nor his reply, as he prefers not to be quoted.

The consensus of opinion from the whole discussion may be summarized as follows:

1. There is no evidence that the cigarette contains any substance, other than tobacco and paper, in its manufacture, and abundant evidence that it does not.
2. There is no reason or foundation of fact for the somewhat current opinion that the use, or even the abuse, of the cigarette has, *per se*, in any case caused insanity.

SUB-LIMINAL CONSCIOUSNESS.

BY W. H. S. MONCK, BARRISTER-AT-LAW, DUBLIN, IRELAND.

The subject of psychology is one to which I formerly gave much attention, and perhaps my views of sub-consciousness, or sub-liminal consciousness may be worth sending you.

No such thing has, in my opinion, been proved. It is, I think, an hypothesis invented to account for known facts, without disturbing a current theory, that apparently conflicts with them. We usually think in train. Each thought, as a rule, has some visible connection with the thought which precedes it, but sometimes a thought occurs which violates this rule. It seems to have no connection with what went before. We then seek for the intermediate links, and having found links that satisfy us, we conclude that they exhibit the real connection, but never rose into consciousness. Even in the last clause we may be wrong. Some persons are fast thinkers, but possess feeble memories. They were conscious of the links, and would have said so if asked at the time, but they have forgotten the fact before they were asked. Sir William Hamilton was, I think, the first man who introduced this theory of latent mental modifications to English readers. I have two complete note books containing an analysis of one of his books, written out by myself. I had entirely forgotten the former when writing out the latter, but my answering at examinations sufficiently proves that for some purposes my memory is a good one. No one can contend that I was not conscious when I wrote the first note book. Further, I have found myself, I think more than once, expressing the same sentiments that I had read in some other book, without the slightest idea that they were not my own. Of course I agreed with the writer, but probably only because he convinced me at the time. Yet I had forgotten that I ever read him at all. But nearly every one is more or less in this position. We recollect what

Read before the Medico-Legal Society, October 19, 1898.

we were taught in our childhood without recollecting anything of the circumstances under which it was taught.

But besides thoughts we are concerned with emotions. Emotions often arise from our thoughts. We feel fear when we are convinced that there is danger. But sometimes an emotion arises which we cannot explain upon rational grounds; and then, in order to trace all our emotions to beliefs, we proceed to imagine some cause for fear that did not rise above the threshold of consciousness. But what reason is there for believing that we *always* think in train or that our emotions are *always* consequent on our beliefs? We find it to be so generally, but is it not better to recognize the exceptions than invent a theoretical explanation consistent with the universality of the rule? There are some persons who cannot look down from a great height without feeling inclined to jump over. Fear would have the opposite effect. Whence then this tendency? I am inclined to think from heredity. Some ancestor had jumped from a great height to save his life—perhaps from a burning house—and the fact was strongly impressed on his mind and transmitted to his descendants. It may be said that this is admitting subliminal consciousness in another form. It may be so; but psychologists should bear in mind that for the purposes of science they assume much more uniformity among mankind than really exists. One man differs from another not merely in his surroundings since birth, but in his original organization, physical, mental and moral. No two babies are perfectly alike at birth, and babies often exhibit differences of talent and disposition at too early an age to attribute it to their surroundings. Two ideas may always have been associated in the mind of one man, which even now require an intermediate link in the mind of another. What is often described as intuition is very probably only this shortening of a train, owing, perhaps, as much to heredity as to quickness of thought on the part of the person who possesses it—which quickness may itself be hereditary. I believe that there are many persons who associate thoughts with the written or printed words without thinking at all of the sounds which, with other persons, are an essential intermediate. Visible signs are quite as competent to represent our thoughts as audible signs; but (unless in the case of the deaf and dumb) we commence with audible signs and at first regard the visible signs as merely representing these. Many persons continue this double representation to the end of

the chapter. Others do not. Most persons know that our emotions depend not merely on the mental antecedents, but on the state of the body at the time. If I am in a low nervous state, I may be strongly affected by something that at other times would not affect me at all. A theory of emotions based only on our preceding beliefs will never explain the facts. It may be said that our nervous system affects the mind and that the change produced may be called subliminal consciousness. But the broad fact is that though our emotions sometimes follow our thoughts, this is not invariably the case. We may love a man whom we believe to be a scoundrel. We may dislike a man whom we believe to be of excellent character. We may weep one time at a loss that on another occasion would not affect us at all.

From the earliest period certain men have been influenced even in their beliefs by causes that have not hitherto been explained. Some were called prophets; others were called wizards. Some were supposed to be inspired; others to be possessed with devils; while the modern spiritualists claim to hold communion with spirits both good and bad. If we had a mechanical theory of the mind which would enable us to predict all its motions like those of the solar system, it would knock all these theories on the head. But we have not; and it is better to admit this fact than to try to work out our theory by supposing imaginary mental facts below the surface of consciousness. Differences of original organization, however, may go some way towards explaining the facts.

BRITISH MEDICAL ASSOCIATION, PSYCHOLOGICAL SECTION AND SECTION OF STATE MEDICINE.

The annual session and 66th annual meeting was held at Edinburgh, Scotland, July 27, 28 and 29, 1898.

The editor of this Journal was in London the preceding week, and had a polite invitation from the officers to be present, but was booked to sail from Rotterdam, Holland, on the 28th, and was unable to do so, greatly to his regret.

Lunching with Dr. Henry Maudsley, the week before, in London, Dr. Maudsley urged me to attend, saying that unusually strong efforts had been made to make the Psychological Section attractive and interesting.

I regret that I am not able, for want of space, to reproduce the entire work of the two Sections, as they fully realize the the strong endorsement of Dr. Maudsley as to the value of the work in these departments.

The two Sections met in joint session, Sir Henry Littlejohn, President of the Section of State Medicine, in the chair.

Sir William T. Gairdner, M. D., K. C. B., Professor in the University of Glasgow, and Physician in Ordinary to her majesty the Queen in Scotland, read a paper on "Aphasia in Relation to Testamentary Capacity," which I greatly regret not being able to reproduce entire, but it is so valuable a contribution to the literature of that subject, that I shall give it nearly all, excepting only the introduction, which he called retrospective:

ANATOMICAL.

I do not wish to go into the general subject of aphasia more than is absolutely necessary, and therefore I shall use scarcely any of those extremely technical terms which have grown into use of late years. I rather prefer to take it, as it were, from the physiological side, and to leave the anatomical questions as much as possible out of consideration. Still I cannot help saying just a word or two. Twenty years ago aphasia was chiefly regarded as localised in, and associated with, what is called Broca's convolution—that is to say, the foot of the third or inferior frontal convolution, which, with a part of the foot of the parietal ascending convolution, constitutes what is called Broca's lobe considered as a speech

centre. But we are now obliged, partly from the physiological and experimental evolution of the subject, and partly from the actual clinical developments of it, to recognize that there are at least four centres of localisation in the brain, lesions of which may affect the power of speech and of writing language. There is the Broca's convolution, and there is the auditory centre which lies somewhat further back, these playing upon one another, the auditory centre transmitting to Broca's convolution the impressions of spoken words through the ear, and the mechanisms of speech, again, being set in motion from Broca's speech centre in the brain; so that these two centres are concerned chiefly with the reception and the production of vocal speech. Then there are two centres which are connected with graphic language, with written or printed words—that is to say, the speech which goes by the sight. The two centres just mentioned are concerned in the communications of speech by the ear and the voice, both ingoing and outgoing, while the other two refer to the communications through the eye and the hand, both ingoing and outgoing. I think that is almost all I shall think it necessary to trouble you with on the subject of localisatian. There is a fifth centre, but I think Dr. Elder and most people admit that the localisation of this is not very easy. It is supposed to be the centre of ideation of the word as apart from the mechanism for the production of the word. That centre is still not definitely localised, and therefore to a great extent we must keep it out of account. It will be sufficient for the present purpose to take account of what I am in the habit of calling the ingoing and outgoing mechanisms, and if we still further divide these into those that spring from the auditory centre (those that go by the ear to the speech centre) and those that go by the eye to the speech centre, and the corresponding outgoing mechanisms of utterance and writing, I think we have got enough of subdivision for our present purpose.

The Mental State of Aphasics.

Now when we come to consider further, we are confronted, in the first place with this ideal question, which also becomes a practical question: Is aphasia consistent at all with integrity of the mind? In other words, is a man who is an aphasic necessarily prejudiced thereby as respects his mental capacity, that is to say, does he, in respect of his infirmity, necessarily depart somewhat from the normal condition of mind, so that you must regard insanity in a theoretical sense as a part of his complaint? That is a very difficult question to begin with, and I cannot afford to deal with it at length. Most of you know the ingenious argument which Professor Max Müller has founded upon the Greek word "logos," and although I do not go to the extent of Max Müller's contention, yet I admit there is a great deal in it. "Logos," in Greek, signifies the *word*, but "logos" also means the *thought*, the *reason*. Max Müller says that one expression does for the word and for the thought which the word represents. In point of fact, he says these are two different aspects of the same thing, and they are practically inseparable. If that is the case, then you might infer that, philosophically speaking, a man who is aphasic is to that extent deprived of reason, but I do not think we can accept that as a practical conclusion. I should be willing to concede, however, that a human being who had never been otherwise than aphasic, who

was congenitally deficient, let us say, in Broca's lobe, or in any of the mechanisms which go to make the speech faculty, could never grow to the "logos," and so become a reasoning animal: he could not rise much above the level of a dog, an elephant, or a horse. That I should be willing to concede. But when we come to the case of a man who is, by a sudden accident, lamed as regards the mechanism of this particular faculty, having had all his reasoning processes well developed beforehand, I am unwilling to admit that he necessarily suffers any derogation at all of the higher faculties, although I may be pressed into the admission that theoretically he suffers, or is likely to suffer, sooner or later, in some degree. Of course, practically, he may suffer in almost any degree, because other faculties besides speech may be incidentally involved, as, for example, when an aphasic is also comatose; but that is all that I can admit. The point here is, how far does this either theoretical or practical laming of one faculty interfere with a man'S capacity to make a will? I do not think that is a question which can be answered in any general sense, but in order to get on the lines of our subject I must direct your attention to what is the legal position in making a will, how much intellect it requires, what, even in cases that are not aphasic, are considered to be difficulties or doubts in the way of constituting a legal disposition of property, and on the other hand, the extent to which the legal instrument, commonly called a will, maintains itself against difficult positions by the force of its own character, as it were. These are all very curious questions, and I should hardly trust myself, not being a man of any legal information, to give any dicta upon them. It is, therefore, extremely lucky for me that we have had the subject presented within the last few days by the Lord President of the Court of Session, Lord Robertson, in words which can hardly be exceeded in precision as applying to this matter. The case he was dealing with had nothing to do with aphasia; but, nevertheless, it drew from his lordship a statement as to the legal position in respect to testamentary capacity; a statement which I have never seen exceeded in precision for our present subject. There are, no doubt, Englishmen here present, and perhaps it may not be quite clear to some of them how far the legal position is the same in England; but all I have to say upon that is that if the law and the state of the facts is not the same in England, you will have to show cause, as the law would say, how it is not, and why it is not. Because you may depend upon it that we Scotchmen will maintain that our way is the right way, and that the Scotch law, founded on the civil law, and coming down to us in a long procession of generations, is a much superior law to the English judge-made law, which is a thing of shreds and patches. Taking the Scotch law, I take it for granted that I am presenting the real first principles of the whole subject; and the English law, so far as it is not in accordance with those principles, has to get itself into accordance with them. Lord Robertson said this: "He must remind them (that is, the jury) that they had not got to try the question whether in the general sense the woman was sane or insane. The question was much more narrow and limited. It had reference to this particular will—had she enough mind to understand it, and did she understand it? because there were many people in this world who had got what might be called a crack in

them, and were really eccentric, and yet their wills were perfectly good. They might think that it was too complicated for the woman ; and if so, then they would find against the will. On the other hand, they might think, although they had heard a good deal of trash about the woman's eccentricities"—[observe the contemptuous way in which his lordship brushed aside all merely theoretical inferences tending to insanity]—"that still she had enough sense to make a will if it was a will that she could understand. It was to be observed in favor of the will that it was not very complicated if they thought the woman really wanted it. They then would have to consider whether there was satisfactory evidence that her mind was applied to it ; but in the meantime, as regards the woman herself, no doubt she was a person of rather low intelligence. She had not been well-educated, and there was in the family a strain of eccentricity." Then his lordship went into the details of the case, with which I will not trouble you, and then comes this important statement : "They were left a good deal in the dark as to what share this woman had in the making of the will at all. His lordship's own impression was that she did not want her relations to get the money. But it was for the jury to say whether this will was her will. They must not break the will unless they really thought that either she was unfit to make it, that she had not sufficiency of mind to make it, or that she was weak and was led into making it by other people."

I think that is very much in accordance with the way in which I put it in a letter to the *British Medical Journal* not long ago (June 12th, 1897), but in reference to an aphasic case : that a will which is a regular document, which is drawn out in reasonable language and signed before two independent witnesses, maintains itself in the eye of the law—it proves itself, as it were ; in other words, it throws the *onus probandi* entirely on those who dispute its validity, and in the absence of clear proof to satisfy the jury either that the testator did not make the will or that he did not know what he was about, that he was not fully conscious of what he was doing when he made it, or, on the other hand, that he was misguided by interested parties, the will holds, and must hold. That is the position of the law at present in Scotland, and I believe also in England

How is that position altered by the case of aphasia? To make a long story short, I would say that my view of it is briefly this. I might say a great deal more about the details, but my view of the principle is briefly this, that the fact of aphasia shifts the *onus probandi*. The fact of aphasia (unless it be very limited in extent) interferes either with the graphic and visual speech processes or with the auditory and vocal speech processes, and therefore throws the *onus probandi* upon those who consider the will genuine or wish to prove the will genuine. It makes a difficulty in the way of a testator giving expression to his true desires and his true will, and those who support the will have to prove that the difficulty was successfully overcome. This is not saying that the will is technically bad because it was made by an aphasic person ; that is not the position I am taking at all. I hold that an aphasic person—I will push it to the full length of saying a man completely aphasic, but not otherwise insane or stupid—has, as regards his inner mind, probably the full capacity of making a will of some kind. I do not say as good or as elaborate a will as you or I could make, with

the assistance of a lawyer, but he has quite sufficient to meet those legal conditions required for a simple and natural disposition of his means.

I take for an illustration of this the case of M. Pasteur, who had a left-sided paralysis, a lesion therefore on the right side of the brain, when I met him in London in 1881; nevertheless, he continued to manage that admirable laboratory of his, he was the administrative head of a large scientific research department, and of his mental capacity no mortal can entertain a single doubt for a moment, even for much more complicated transactions than making a will. He was not an aphasic, of course; but he might have been so, had the lesion been on the other side of his brain. Now M. Pasteur made the shortest and simplest will that I ever heard of. It was this: "I give all my goods to my wife." Is there the least reason to suppose that if, instead of being on the right side of his brain, that lesion had been on the left side of his brain, even if Broca's lobe, or the auditory centre, had been destroyed, that M. Pasteur would not have been able to form that will in his own mind, would not have been able to make a valid will leaving everything to his wife, provided he could have, somehow or other, by signs, or in some way, positively and clearly impressed everyone that that was his will, and had got that intention, somehow, put into a proper legal form? I have no doubt whatever that his testamentary capacity, under such an aphasic attack, might have been unaffected except as regards the outward mechanism of language. The difficulties, however, in a practical sense, may be serious; for a flaw in the mechanism either of reception or of production—either in the ingoing or the outgoing mechanisms of language—may prove to be something like a five-barred gate in a steeplechase: it is an additional obstacle to be got over, and the multiplication of these obstacles may incidentally preclude the possibility of giving effect to an intention which, nevertheless, may be quite clear if the testator could only get it out.

Now the question is, how far these difficulties go in a particular case. Dr. Bramwell, who I hoped would have been in this Section, has tackled this subject with his usual industry and completeness, and the only fault of it is that he has made it so excessively complicated in his way of stating it, that I am quite sure if I read the whole of it to you you would be quite overwhelmed (as, indeed, I am myself) with the extreme subtleties of the argument. There are, perhaps, one or two points where I should be disposed to differ from him, but I am not going to speak upon these just now, because I quite concur with him in his general statement of principle, that the question whether an aphasic person can make a will, and how far he can make a will, is a question of detail entirely; it is a question which must be submitted to a jury on the basis of the individual facts of the individual case, and has got to be fought out in a court of law, not upon any abstract principle at all—I have stated the principle as far as I think it will go—but upon the individual details of the individual case. In fact, I apply to aphasia just the same rule as Lord Robertson applied in the case I have quoted. It is not a general question of law, it is not a thing which can be put into legal or into physiological categories at all. The question in that individual case was, Did the woman know what she wanted? Did she form a clear conception of what she wanted, and did she succeed in giving effect to that conception

in the particular document that passed for her "will?" Or was that document not really her will at all, but inspired or instigated unduly by others taking advantage of her infirmities? These are exactly the questions of detail that equally arise in dealing with the will of an aphasic.

I happen to have some very interesting documents, which I propose to hand round, only please observe that there must be no names mentioned at all. These are some attempts at utterance in writing in a case of aphasia recently under the care of Dr. Sinclair, of Dundee, the case of a gentleman, well educated, and himself a very able lawyer and man of business, whom I saw in consultation, and who died aphasic. It was of great importance to get something done—it was not making a will in this instance, but it was withdrawing from a set of business transactions which he was connected with as factor or trustee, and it was of great importance to get this effectively done ; but it was found to be impossible, and had he lived longer, there would have been an imperative need to apply to the court about it ; because, even as regards the simple assent or dissent to a simple proposal, it was found impossible to obtain a clear and consistent "Yea" or "Nay." Yet this gentleman seemed to be, in a general way, clear enough in his intelligence except as regards language, and there was no apparent ground for questioning his sanity.*

Another case which I want to refer to is the one I myself stated in a letter to the *British Medical Journal*, of June 12th, 1897, but as it is all in print, and as it contains a great deal of the substance of what I have said, I will not detain you with it. It is the only case in which I have been personally concerned, where a dispute has arisen about an aphasic will, and it would have been a very curious case indeed had it come into court.

There is just one more case to which I must briefly refer. I saw in consultation, a great many years ago, a gentleman who became aphasic, as the result of a hemiplegic attack. A friend of mine had married his daughter, but I did not see much of this patient latterly, as he went

* The documents, which were placed at the disposal of the meeting, in connection with the above very brief remarks, are of considerable interest as showing in detail the great amount of interference, both with the ingoing processes through the auditory centre, and the outgoing through the graphic centre, in regard to the reception and production of words and even letters. In multiplied attempts at writing to dictation, there is only, in one or two instances, such an amount of resemblance to the word proposed as would be legible to a third party. In one instance an Arabic numeral (67) is fairly well written, but the rest of the address (his own house) is a mere collection of scratches, with barely a trace of the letters indicating the name. His own and his sister's name are equally difficult, if not impossible, to decipher ; on the other hand, he has on one occasion written "summer" and "winter," not well, indeed, but quite intelligibly. He was able, apparently, to read his own name on an envelope addressed to himself, and he could usually, but not always or consistently, carry out a direction given him by spoken words, as thus: "Hold up one finger." "Put out your tongue." "Close your eyes." "Take off your eyeglasses." Dr. Sinclair writes in regard to the particular questions referred to above, as follows: On March 16th, 1898, Mr. Z. had an attack of right hemiplegia with aphasia, and I send you some records of that condition. On June 5th he had an attack of cerebral hæmorrhage with convulsions and unconsciousness, and he died comatose on June 7th. There is no doubt that Mr. Z.'s whole appearance and demeanor were those of a man who was quite competent in idea to give instructions as to the direction of his affairs, and as his position of judicial factor for the trustees of an important firm of business men, was one of very great consequence to his own estate, as well as to the family and the creditors, his law agent, and all concerned, were most anxious for his fiat. But the notes I sent will show that at no time from his seizure, on March 16th last, was he able to give directions on which reliance could be placed, even when only a simple assent or negative was asked. In short, I could never ascertain what his will in the matter actually was. Had his life been much more prolonged it would have been necessary to apply to the Court of Session for his discharge from the office. This, as you will readily understand, was a measure from which his friends rather shrank at the close of a long and honourable career such as his.

away to reside in England, where he died. Since this discussion arose, I took occasion to enquire whether he had made a will after he became aphasic. I found he had not, and furthermore, that he would have liked to have done so, but the conscientious people who were about him did not think he was competent to do it, and thus, although he was, in a sense, all right as to his mind, he was so deficient in the power of expression as to have been regarded as not competent to give effect to what he was known to have intended and desired to do. And thus (as his son-in-law wrote to me lately), though almost any change in the disposition of his property after his daughter's death, had he made it, would have been more or less in the interest of her family, and although his own wishes (in a general way) were known to them, yet the difficulties to be surmounted in the way of expression were such that (although the son-in-law was a medical man) no attempt was ever made to put anything on paper, the disposition (made before the aphasia) remained unaltered to the last.

I regret very much that the exigencies of time and of space preclude me from making any more detailed references to these and other cases, and also from discussing the general subject more at large with relation to the different kinds of aphasia and agraphia.

[Postscript by Sir W. T. Gairdner.]

As this case is a really curious one, and is certain not to be ever more particularly recorded, it may be as well to insert the precise terms of the letter referred to by my friend whom I shall call Dr. X. The aphasic patient is referred to as Mr. Y.

"In reply to your letter, Mr. Y. made no will after his seizure; the estate was dealt with in terms of a will made before my marriage with his daughter, and of course before my wife's death; my wife died before her father. For convenience of all parties interested he signed a document giving power of attorney to his two sons to give receipts for dividends, etc. I do not think he knew what he was doing then, but it was a matter in which every one was in agreement. Had he been able he would, I am sure from a conversation I had with him after his daughter's death and about a year after his seizure, have altered his will somewhat. We were very friendly and he kept saying that if he had only thought that his daughter's death would have occurred before his own he would have arranged differently. But he was never in a condition to give a clear assent to any special point. He was to the end confusing and misnaming coins, dates, and occasionally people.

This paper was discussed by William Elder, M. D., F. R. C. P. E., Physician to the Leith Hospital, with great ability, and reported in the *British Medical Journal* of September 3, 1898, from which I make a few selections and give his general conclusions:

Whether a patient who suffers from aphasia is capable of making a valid will (or exercising his civil rights) is a question which it would be as absurd to answer with a "Yes" or a "No" as it would be to answer in a corresponding affirmative or negative fashion the question whether a patient suffering from cerebral tumor is capable of making a will or not.

Each case must necessarily be judged on its own merits, and an answer given according to the symptoms which the patient showed at the time that the will was made. At the same time, a few general principles can be laid down to guide us in determining the testamentary capacity of a patient suffering from aphasia.

At the outset of our inquiry we are met by the legal question: What amount of intelligence or mental capacity in a person is necessary in order that the testamentary act which has been executed by that person may legally stand as his will—or what amount of intelligence or mental capacity is it necessary for a person to show in order to give directions to someone else to draw out his will? That is a general question I must leave others to answer, but I presume that a person, in order to make a valid will, must in the first place be sane enough, and of sufficient strength of mind, to know what he is doing, and to judge of what the effect and consequences of his intended disposition may be, and in the second place be capable of carrying out in his actions what he psychologically intends; because, as is well known, to take a simple case, it is quite possible that a person may mentally desire to say "No" and "Yes" by the outward expression of his mental action.

It must be laid down as a general principle that no one can make a will who does not possess the power of understanding and of producing language of some sort. I use the word language rather than speech because it is not so apt to lead to confusion, although "speech" has come to be used in almost as general a sense as "language."

In order to make a will it is necessary for an individual to be able to communicate to others by some form of language what he would like to have done after his death. It is necessary by law that the wishes or desires of the person be put in writing. It would not, for instance, be held to be a will if a person simply indicated by signs before he died that he wanted such and such a thing done, nor would it be held to be a will if a person gave directions by word of mouth. The simplest and most primitive form of will is a holograph will—that is, a will written and signed by the testator himself. The law, however, recognizes a will that has been written by someone else, provided it is signed by the person making it. In all these cases, however, it is necessary for the signature to be attested by witnesses. The point I wish to make just now is that it is necessary for a person to be possessed of at least some language in order that he may make a will, although the amount of language may not necessarily be much.

He must be capable of understanding language, so that he knows either what he reads or what is read to him. This implies that he can hear and understand words, if he cannot read nor understand pantomimic language; but if he can read and understand what he reads, then it is not necessary for him to hear nor understand pantomimic language. If he can understand pantomimic language, the question might arise whether it is necessary for him either to be able to hear or to read. It is possible also, of course, for a person's intelligence to be reached in other ways, as, for instance, by means of the muscular sense. On the other hand, given that a person understands what is in a document by any of these methods, it is not necessary that he be able to speak in order that he may execute a testamentary deed. He may indicate what he wishes by means of writ-

ing, or by pantomime, or in other ways. How, therefore, would the symptoms of the different forms of aphasia affect the testamentary capacity of a patient suffering from each form?

From the one form of aphasia of Broca, the varieties have increased till at least one author recognises twenty-eight, but these varieties are only theoretical, and practically there are four clinical types, although I believe several varieties of more or less importance of each of these types are seen occasionally. Of these types, two are sensory, and are an interference with some part of the reception and understanding of language mechanism, and two are motor, and are an interference with some part of the mechanism which has to do with the production of language. The sensory are: 1. Auditory aphasia or word-deafness. 2. Visual aphasia or word-blindness. The motor are: 1. motor aphasia or aphemia. 2. Graphic aphasia or motor agraphia.

There are many general symptoms affecting the mental or intellectual capacity of the patient which may be shown by the subject of any cerebral lesion, and have a very direct bearing on the question of testamentary capacity. I put aside, however, those symptoms, and limit myself to the symptoms peculiar to each variety of aphasia.

Auditory Aphasia.

A person suffering from complete auditory aphasia would be incapable of making a will. Complete auditory aphasia not only implies word-deafness but also word-blindness, because it is necessary for the auditory word centre to be capable of acting in order that a person may understand what he reads, so that the person with auditory aphasia would not be able to read intelligently, nor would he be able to understand what was spoken or read to him. The understanding of pantomimic language might also be lost, but if it were present it would certainly be very difficult to communicate to such an individual the contents of a testamentary document. It is possible, of course, that a person both word-blind and word-deaf might have acquired the power of reading by the touch and muscular sense, but such a case would be very exceptional.

Not being able to understand any form of language, he would in all probability not be able to communicate his wishes by producing any form of language. In auditory aphasia, if the motor articulatory centre acts at all, the patient is paraphasic, that is, he can speak words, but these words are not necessarily the correct ones, nor is he able to correct himself, because he cannot hear what he has said. Often such cases talk gibberish, especially if the auditory centre is not completely destroyed, or if the right auditory centre is particularly active.

His other productive language centres are even less capable of communicating with his fellow-men than the motor articulatory centres. If he can write at all, it is only some very familiar words or letters, such as his signature or even the first letter of his signature, and he may show "letter or familiar word intoxication" in writing. It is to be noted, therefore, that a signature present on a document is no evidence that the person understood a word of what was in the document, nor is it evidence that the person had command of language sufficient even to write. The signature in such a case is written automatically by the graphic centre, and is analogous to a reflex act.

As a complete auditory aphasic is therefore incapable of making a will, so probably are all cases in which there is a distinct impairment of the auditory word-centre. In cases in which the impairment is very slight, then the symptoms of paraphasia and paragraphia are often more distinct, the patient on the one hand being able to understand spoken and written and printed language better, but on the other hand producing language more freely, but often quite inaccurately.

In such cases it would often be very difficult to say whether such a patient was capable of executing a will, and the same difficulty would be met in cases of conduction aphasia, in which the auditory and visual word centres escaped altogether, but the patient only showed the symptoms of paraphasia and paragraphia with word-intoxication. These cases understand what is said to them, and can read writing and printed matter, but, in attempting to speak or write, they use incorrect words and repeat themselves. They know, however, that they have spoken or written incorrectly, but still it might be difficult to say whether they were capable of making a valid will.

There is one very rare form of auditory aphasia that must be put on a different footing from the others, and that is the infrapictorial or subcortical variety, where the patient cannot hear words, but can understand words written and printed, and can speak and write correctly. Such a case would be capable of executing a will provided he had education sufficient to read, but he would, of course, not understand what was read to him.

Visual Aphasia or Word-Blindness.

Here we would practically have to consider whether we had to do with a case of pure word-blindness (infrapictorial or subcortical visual aphasia) or of cortical word-blindness (pictorial or visual aphasia). In subcortical (or pure) word-blindness, the patient would not be able to read and understand either printed or written matter, but he would be able to hear and understand spoken language, and he would be able to speak and write correctly. Such a patient, therefore, might be quite capable of making a will, provided the contents were read to him or he wrote them himself; but the case would be different with a patient suffering from pictorial or cortical word-blindness. In that case he would not be able to read nor understand written or printed language, nor would he be able to write either voluntarily, or to dictation. It is to be noted that here also, I believe, such a patient is quite capable of writing his signature, or very familiar letters, by the automatic action of the graphic centre. But the fact that he could not as a rule append his signature to any document, even although he might understand what was in the document from having it read to him, raises the very interesting question as to whether such a document would stand, provided he carried out the legal formality necessary in Scotland of getting a notary to sign for him in the presence of witnesses. I believe that in case of uncomplicated cortical word-blindness the patient is quite capable of making a will, provided the contents are accurately read out to him before he gives instructions to the notary to sign for him. The patient is practically in the position of a person who is blind, with, of course, the additional general symptoms due to the fact of his having a cerebral lesion.

Motor Aphasia or Aphemia.

In this condition the testamentary capacity would vary according as the lesion was in Broca's centre alone (pictorial or cortical motor aphasia), or subcortically to Broca's centre (infrapictorial or subcortical motor aphasia), what Bastian calls aphemia. If infrapictorial or subcortical motor aphasia, the patient can read and understand written and printed language, can hear and understand spoken language, and can write either voluntarily or to dictation, and therefore could write his own will; but it might be difficult for anyone to take directions from him for the making of his will, as he would not be able to speak; but if an educated person, his knowledge of language would be so perfect that he would be able to read his will before he signed it. Hysterical mutism I believe to be the functional form of this variety, and hysterical mutes, therefore, are capable of making a valid will.

In cortical or pictorial motor aphasia we have a different condition, however, and I am afraid there must still be some difference of opinion as to the testamentary capacity of patients suffering from the uncomplicated form of this disease. Until within the past few years it has been believed that patients suffering from this form were almost always agraphic. Bastian has, however, produced evidence which he believes shows that patients with a lesion in Broca's centre, if limited to the third left frontal, do not suffer from agraphia. The chief part of that evidence is a case published by Guido Banti, but I cannot say that that case nor the evidence that Bastian has produced is quite convincing, and the question is therefore still in doubt. This, however, is not the place to enter into a discussion of this question. Sufficient is it to mention it, and to get over the difficulty by stating that clinically by far the majority of cases have agraphia as well as motor aphasia, and therefore these cases would not be able to write a will, and if they signed such a deed, the signature would be an automatic one, and the will, to be legally executed, would in Scotland require to be signed for him by a notary in the presence of witnesses. But there is another point about these cases still somewhat in doubt, that is, whether a patient with pictorial motor aphasia can read and understand what he is reading. I believe that some can read and understand what they are reading, and some cannot—the difference depending on the peculiar physical constitution of the individual and the method of his education. Patients with cortical motor aphasia can, however, understand what they hear, so that if a deed was read over to them they would understand its contents, and they could give instruction by pantomime to a notary to sign for them in the presence of witnesses. Here a legal question might arise as to whether the instructions given by pantomime would be considered sufficient.

Graphic Aphasia.

No true case of cortical graphic aphasia has been authenticated, but in such a case the patient would be able to hear and understand spoken speech, to read and understand written and printed language, and to speak correctly, so that his knowledge of language would be complete except that he would not be able to write. He could, however, give instruction to a notary to sign for him in the presence of witnesses.

Similarly with cases of paralysis of the right hand due to subcortical

lesions, or lesions of the cortical centres for the right hand, the patient could execute a testamentary deed by giving instructions as in the last case, or he might write with the left hand. In this connection a very interesting point might arise. I believe that in those cases of lesion, subcortical to the centres for the right hand the patient sometimes, especially if he has been an expert writer, may, when he attempts to write with the left hand, write in the peculiar way called mirror writing. I have elsewhere given my views as to the explanation of this. I believe that the left hand in such cases is guided by the graphic or cherio-kinæsthetic centre on the left side, the impulse passing through the callosal fibres to the centres for the left hand in the right cerebral cortex; but whatever the explanation of such cases, a case might arise where a patient paralysed on the left side from an internal capsular or subcortical lesion might write his own will in mirror writing with his left hand, or might sign his will, writing in this mirror fashion.

Such mirror writing, as I have pointed out elsewhere, is often an exact reproduction of his ordinary right-hand writing, when looked at in a mirror. A person writing a will in this fashion ought, I believe, to be considered quite capable of executing a testamentary deed if his other symptoms did not point to incapacity, but it is questionable whether it would be held valid by law.

Conclusion.

The conclusions I would draw from a consideration of the whole subject are:

1. That organic disease of the brain may render a patient incapable of making a will, and that some form of aphasia may be produced also as one of the symptoms of organic disease.
2. That some forms of aphasia may render a patient incapable of will making.
3. That auditory aphasia, if at all well marked, incapacitates a patient from will making.
4. That some other forms of aphasia, such as pictorial word-blindness, pictorial motor aphasia, and graphic aphasia, may render a patient incapable of making a will, not necessarily from being mentally incapable, but from the difficulty of carrying out the legal formalities.
5. That these difficulties in carrying out the legal formalities necessarily vary according to the law of the particular country.
6. That simple uncomplicated cases of infrapictorial auditory, infrapictorial visual, and infrapictorial motor aphasia, are capable of valid will making.

Dr. T. S. Clouston, Superintendent of the Royal Asylum, Morningside, Scotland, took part in the discussion as follows:

Dr. Clouston said there were two points which he insisted every man must attend to. The first was the test question, whether it was the will of the individual, or whether it had been suggested to him. The second was that in making the will of any aphasic patient it was the duty of every medical man and lawyer to put the contrary case—a man had left, say, £100 to his wife and £100 to his daughter—to A. and B. They were bound to ask him if it was for B. and C. or for D. and E. that he intended the money. No will of an aphasic, in spite of any judge or doctor, could

be a legal and proper will unless the doctor had put the contrary case, because an aphasic would assent to anything if put to him in a certain way. It was essential that the mental condition of the would-be testator should be tested by a medical man. Dr. Clouston concluded by urging that two practical points in the actual making of the will must be attended to: 1. Test whether the document is his own, and has not been suggested by others; 2. Put the contrary proposition, or a different proposition, twice at least, as to sums disposed of, and as to the persons to whom the money or property is left. No will can be valid where these two points have not been most carefully gone into.

[It was found necessary, owing to the pressure of business, to stop the discussion at this point.]

The paper by Sir William T. Gairdner is a very valuable contribution to the literature of the subject, as is the article furnished by Dr. William Elder, and both, with the discussion, will be received by both professions of law and medicine with favor and thanks.

The British Medical Journal, in reviewing the paper of Sir Wm. T. Gairdner on "Aphasia and Testamentary Capacity," and of Dr. Eder, says Editorially:

This statement of the Scottish law does not appear to have been quoted from a law report, but it states fairly enough in popular language the principles of English law which are to be applied in all such cases. When a will is produced which has been made in proper form and has been signed by the testator (either in writing or by a mark) in the presence of witnesses, the law assumes it to be a valid will until the contrary is shown. The grounds on which a will is attacked are usually either:

1. Testamentary incapacity, or
2. Undue influence.

Incapacity need not be absolute insanity, but has been defined as a "want of mind to understand" the will in question. If the court which has to try the case is satisfied that the testator was altogether insane, it generally follows that his testamentary incapacity will be assumed, though there have been instances in recent years where wills made by persons already certified to be lunatics have been held good. But where the testator is eccentric, and still more where he has been debilitated through illness or bodily or mental failure, the evidence as affecting the question of his power to understand and make a will has carefully to be considered.

It is difficult to lay down general rules which will meet the circumstances of all supposable cases. An aphasic patient, who was originally able to speak and had learned to read and write, but who had lost the power of speech through accident or illness, would probably be considered capable of making a valid will, unless it could be shown that his mental powers had been affected as well as the power of articulate utterance. Some persons, again, who have never been able to speak, are apparently quite able to understand what goes on around them, and are able to communicate with other people by signs or in writing. In their case, the power to make a valid will would hardly be disputed. The

proper answer to the question becomes more difficult where the patient, though apparently in possession of his mental faculties, lacks the means of expressing his ideas in such a way as to be intelligible to others. Probably he may possess sufficient understanding to be able to make a will; but still it may be doubtful whether a document, prepared in accordance with what are assumed to be his wishes, and signed by him with his mark in the presence of witnesses, does give such effect to his wishes as to be treated as his will. In such a case much would depend on the credibility attached to the witnesses called on to speak as to the circumstances under which the will was executed, and much on the nature of the will itself; on whether it duly provided for those to whom the testator would presumably be attached, and on similar considerations. Finally, if the symptoms attending the aphasia were such as to lead to the inference that he was suffering from imbecility or mental debility, as well as from loss of speech, there is very little doubt that a will made by such a patient would be held invalid. No general rule can be laid down with regard to aphasics. The circumstances of their affliction vary greatly, and so does their testamentary capacity. Those who are called on to testify in such cases should carefully observe all the circumstances attending the case, and can seldom predict what the decision of the tribunal will be. Each case must be and will be judged on its own merits, and on the opinion which the court may form as to the capacity of the testator. Medical evidence in such cases is most important, but not conclusive, and it must always be remembered that the point to be determined is not the general sanity or insanity of the testator, but his capacity to understand and to make the will in question at the time when it was executed.

The legal views are in accord with the law in the American States.

A deaf mute can make a will, if it is clear that he fully understands its provisions.

In the case of an aphasic, it is necessary to affirmatively establish as a fact by competent evidence, (1) that he fully understood and comprehended the document; (2) that he was able to make it understood by the witnesses that he was making his will, and desired them to attest it as witnesses.

If a man was in full possession of his mental faculties and was still unable to express his ideas so as to be intelligible to others, he could not make a will under the law of New York, because the Statute requires that he declare it to be his last will and testament, in the presence of the witnesses and that he requests them to sign it as witnesses.

Any of the statutory requirements omitted by a testator, invalidates his will; and his being an aphasic would not change the case.

The question of the competency of a testator must be made

clear. Aphasia does not, *per se*, destroy testamentary capacity. The court will, and in doubtful cases frequently does, look into the nature of the will itself, but on the same lines as to all testators.

The tendency of American courts would be to uphold the will of the aphasic, if he was able to make his witnesses clearly understand that he knew its nature and character, and that it was his will which he wished the witnesses to sign as such, and see him sign.

Upon this branch of the case, in cases at all doubtful, the suggestion of Dr. Clouston is of force. It ought not to suffice to invalidate a will when it had been omitted, but when it had been followed it would leave no doubt as to the validity of the will.

In the case cited by Dr. Gairdner, while it is full of doubt, the amount of intelligence Z. possessed would have made his will valid, had he been able to clearly convey his meaning.

If he had been asked if he had made the will and fully understood it, and requested "to take off his eyeglasses if he did" and he had done so,—that would have helped to maintain the assent to the instrument, and if similar acts directing its execution had been comprehended by him, so that he could have raised a finger for an affirmative, and closed an eye for a negative, or used any sign or signal showing he fully understood the question, and could read the will, or hear it read, and satisfy the witnesses that he could and did read it, and knew its nature, and requested them to witness his signature, the courts would have upheld the instrument. Failure to write one figure or set of figures, with ability to write others, would not incapacitate him, and had the medical son-in-law called in an attorney it is not at all improbable that, by patience, the proper execution of the document could have been obtained.

THE CRIMINAL RESPONSIBILITY OF THE INSANE. THE RIGHT AND WRONG TEST. PUNISHMENT OF THE INSANE.

Before the Psychological Section of the British Medical Association, the Criminal Responsibility of the Insane was presented and discussed at the July session of 1898, and the following paper read and discussed, as reported in the *British Medical Journal*, of September 3, 1898:

THE PLEA OF INSANITY IN CRIMINAL CASES.

BY CHAS. A. MERCIER, M. B., M. R. C. P., LONDON, LECTURER ON NEUROLOGY AND INSANITY, WESTMINSTER HOSPITAL MEDICAL SCHOOL, AND AT THE MEDICAL SCHOOL FOR WOMEN, LONDON.

The controversy between the medical and legal professions that has raged for so long round this subject is now rapidly extending. Judges, while adhering, as they consider themselves bound to do, to the terms of a well-known formula, contrive so to interpret that formula that upon the whole substantial justice is done. Medical men, recognising that upon the whole substantial justice is done, cease to contend for an academically perfect formulation of the law, and recognise that such a formula might be found, after all, to be inapplicable to outlying and exceptional cases without that laxity of interpretation which renders the present law practically effectually effectual. No useful object can, in my opinion, be served by a prolongation of this controversy, and I do not propose to have any more to say with regard to it.

What Mental Conditions Should Exonorate.

The aspect of the plea of insanity which does demand discussion at the hands of medical men appears to me to be this: Are medical men agreed as to the mental conditions which ought to exonerate a criminal from punishment, and if so, what are these conditions!

The first question must, I think, be answered in the negative. I know of no statement of such conditions that has received the general assent of the profession. Several propositions purporting to formulate these conditions have from time to time been proposed, but no one of them has succeded in obtaining universal or even general support. To every one of them the opposition from within the medical profession has been at least as strenuous as the opposition from without our ranks. While, therefore, we inhabit a dwelling so copiously provided with glazing, it would be well to refrain from the recreation of throwing stones. While no agreement upon this point has yet been reached, it does seem eminently desirable that such a general consensus of opinion should be attained, and in order to clear the way towards so desirable an end, I should ask your assent to three general propositions.

Immunity from Punishment.

First, I ask you to agree that no insane person ought, for any act, to be punished with the same severity as a sane person ought to be punished for the same act. Or, in other words, the punishment of an insane person ought never to be as severe as the punishment that a sane person would rightly incur for the same act. To this proposition there will, I think, be few dissentients in this room. Every institution for the insane is conducted in accordance with this principle. When the lunatic steals, or assaults, or behaves indecently, or wrongs his neighbour in any way, he is not put into a cell, nor deprived of the society of his fellows, nor is he made to lie on a plank bed, nor is he placed on starvation diet. His treatment is not assimilated to that of sane criminals, and the reason, the only reason, why it is not so assimilated, is that he is insane. Practically it is recognised every day, and all over the country—nay, all over the civilised world—that insanity carries with it, *ipso facto*, a certain immunity from punishment; that the insane offender is not to be treated with the same severity as the sane offender. It would not be difficult to show, that for this practice there are good, sound, scientific reasons; but I do not desire to labour the point. nor do I desire to treat the subject from any but a strictly practical point of view, and that the practice is as here stated must, I think, be admitted.

The second proposition to which I desire your assent is this: There is for every insane person, a certain sphere of conduct for which he ought to be entirely immune from punishment; or otherwise put, every insane person may commit certain misdeeds for which he ought not to be punished. We should all admit that it would be wrong to punish a sufferer from delusions of persecution for assaulting his supposed persecutor; or to punish a woman with puerpal mania for trying to kill her infant; or to punish a general paralytic for taking a watch that he thought belonged to him; or to punish a dement for upsetting the lamp and setting the house on fire. And, similarly, there are, for every insane person, misdeeds which, if they were done by a sane person would be rightly punishable; but which, done by the insane, it would be clearly and manifestly wrong to punish at all.

The Degree of Responsibility of the Insane.

So far, I trust, that I have carried the sense of the meeting along with me, but my third position is one for which I do not hope to obtain your immediate assent, although I trust to secure it before I have finished. It is this: Very few indeed of the insane are wholly irresponsible—by which I mean that there are very few indeed of the insane who ought never to be punished for wrong-doing. Or, to put it with brutal plainness, it is in many cases right and just to punish an insane person for wrong-doing. I am afraid that I have made your flesh creep. There is doubtless a very prevalent floating body of sentiment, which gets expressed from time to time in expressions of horror and disgust at the notion of ever punishing a lunatic under any circumstances for any act. The English Commissioners in Lunacy some years ago wrote in their report of a certain asylum that they observed that a certain course of dealing with a patient had been adopted, and they added: "We are of opinion that this is punishment pure and simple"—or words to that effect. No further censure wa

uttered, evidently because it was felt that no further censure was needed, or indeed that no stronger censure was possible; the implication, the omitted premises, being manifestly that no lunatic ought under any circumstances to be punished. With a full appreciation of the obloquy and odium that I shall incur by the statement, I affirm that for very many of their misdeeds the majority of lunatics ought to incur some punishment; and, further, I affirm that explicitly or implicitly this is the opinion of every practitioner who has had experience of the insane; and, furthermore, I affirm that punishment of the insane in some form or other is in practice in every institution for lunatics.

Punishment by Withdrawal of Privileges.

Come, gentlemen, let us clear our minds of cant in this matter. Who is there among you who, if a patient on parole comes in drunk, will not refuse him his parole next time he applies for it? Who is there among you that, when a woman has been fighting or smashing, will not forbid her to attend the weekly dance? Who is there that will not stop the tobacco of a man who is discovered pilfering or bullying? Is it denied that these are punishments? It may be said that a woman who is so violently maniacal as to be fighting and smashing is not fit to attend a dance, and is forbidden for that reason and not for punishment. And it may be said that the man who comes in drunk is refused his parole, not as punishment, but as precaution lest he should come in drunk again. But I expressly exclude the withdrawal of punishment for any such reason. I speak of "punishment pure and simple," and I say that when a patient has been smashing and tearing her clothes, not in an access of acute mania, but in an outbreak of temper, she should be excluded from the dance, not because she was unfit to be present, but as a punishment. If the man is refused the renewal of his parole as a precaution, then the refusal must be permanent. But it is not permanent. We rely upon the temporary withdrawal of the privilege to act as a check in preventing its abuse in future, that is to say, we use it as a punishment. It is sometimes denied upon another ground that these are punishments; they are, it is said, not punishments, but withdrawal of privileges. Why, yes; and so to send a man to prison is to withdraw from him the privilege of going about at large. And to treat him to bread and skilly and the plank bed is not punishment, but merely withdrawal of the privilege of sufficient food and sleep. I say that to stop a patient's tobacco or to forbid him the weekly dance is "punishment pure and simple" every bit as much as giving him a shower bath. If anyone here is in the habit of allowing pocket money to his patients, he will corroborate me when I say that this practice gives him a very powerful control over their conduct. The prospect of having his pocket money stopped will restrain a patient from practices of mischievousness, destruction and other evil habits. *Experto crede.* I have proved it again and again. And although it may be no punishment to deprive a man of his tobacco, as to which the opinion of habitual smokers will be all one way, yet it surely cannot be denied that the infliction of a pecuniary fine is "punishment pure and simple."

Of course, it will be said that I have advocated a return to chains and manacles, to the lash and the bed of straw, and all the horrors of old Bedlam; and I shall be pointed at with the finger of scorn as the brutal

castigator of the lunatic, when, in fact, all that I have done is to refuse to call a spade an agricultural implement.

Let me point out that this proposition—that for certain offences lunatics are rightly punishable—is involved and implied in the propositions to which you have already assented. If it is asserted that no insane person ought to be punished with the same severity as a sane person, it is implied that the insane person ought to be visited with some punishment. When it is asserted that for every insane person there is a sphere of conduct within which he ought to be immune from punishment, it is implied that without that sphere he ought not to be immune from punishment.

Mitigated Punishments.

The practical importance of these propositions with regard to the plea of insanity is this—that while there are some cases in which we may rightly ask the court to refrain altogether from punishing the criminal, there are many more cases in which we cannot justly demand such complete immunity, but in which we can fairly argue that the criminal is responsible to some extent but is not wholly responsible, and that, therefore, while he ought to be punished, he ought not to be punished with the same severity as an ordinary offender. If this attitude be assumed by the medical witness, I feel sure that not only will he present his plea in a more just and equitable form, but he will stand a far better chance of having it admitted. His contention will be more in harmony not only with the justice of the case, but with the sense of the court and with the feelings of the community at large.

This, then, is the aim that, in my view, we should set ourselves to attain. The total immunity of some insane offenders for some acts, and the mitigation of punishment in more or less degree for all crimes done by insane offenders.

When Should the Insane Criminal be Held Immune?

The acceptance of these principles, if they be accepted, will not help us much, however, to the solution of the practical problem that confronts us in concrete cases, for in a very large number of cases in which insanity is pleaded, the prisoner has not been regarded as insane until the commission of the very crime for which he is now being tried. If our task were to establish the immunity, or partial immunity, of a person who is admittedly insane, it would be an easy one. What we are usually asked to do is to show why the offender, who up to the time of the crime has been sufficiently sane to be allowed, rightly or wrongly, to be at large, should, now that he has committed a crime, receive the benefit of the plea of insanity.

Conclusion.

The speaker then briefly summarised the circumstances which, if proved, would establish the plea, namely:

1. Exonerating delusion.
2. Such confusion of thought that the aucused was incapable of rightly estimating the circumstances or the consequences of his act.
3. Extreme inadequacy of motive.
4. Extreme imprudence in the act.
5. The non-concurrence in the act of the volitional self.

The paper was discussed by John F. Sunderland, M. D.,

Deputy Commissioner in Lunacy for Scotland; Dr. George F. Blandford, M. A. Oxon, M. D., F. R. C. P., Lond. Visiting Physician, Newlands and Otto House Lunatic Asylum; John Glaister, M. D., Professor of Medical Jurisprudence and Public Health, St. Mungo's College, Glasgow; Prof. Alexander Robertson, M. D., F. F. P. S., Glasgow; Prof. Sir William T. Gairdner, K. C. B., and T. S. Clouston, M. D., F. R. C. P. Edin., Superintendent Royal Asylum at Edinburgh, Scotland.

Dr. Sutherland said:

I have no fault to find with the criterion of responsibility laid down by the judges in 1843 in response to the request of the House of Lords for a definite ruling. The criterion—a simple one—amounted to this: Did accused at the time of committing the crime know the nature and quality of the act, and did he know the act was a wrong one? This is a good enough definition for all purposes, and I have not known any injustice to insane persons result from it in Scotland. It may not be a perfect law, but on the whole it has worked, thanks to the fairness of the Bench of this country, remarkably well. If you wish this judicial formula changed, as some seem to think, we have the right to ask—1. What do you propose to take its place? and 2. To state wherein and to what extent it has operated unfairly to accused persons. Cases in which the plea is possible are few, because the number of crimes of violence committed by insane persons is infinitesimal when the whole is taken into account. The bulk, perhaps no less than 95 per cent., of these indictable offences, were committed by persons in a state of intoxication. In regard to such authors of crimes of violence, how does the law and how do experts stand? The "judge-made" law of 1843, as some people term it, would exculpate them from responsibility, for it exactly meets their case. A person intoxicated cannot and does not know the nature and quality of the act, or that it was a wrong act, because intoxication is insanity of the most perfect type, no matter how transient. But while "insane at the time" is a proper defence in such cases, how many specialists will enter the witness box and testify to that effect? If they did, I do not believe any jury would convict of the capital charge. No; the judicial dictum of 1843 is not, at all events in regard to them, at fault. It is not the law that is at fault, rather is it the hesitancy of medical witnesses to take a proper stand, which is blameworthy, and likewise the fact that the accused as a rule, being poor, have not the means to secure legal aid commensurate with the gravity and responsibility of the case. Consequently such cases, for the most part, fall into the hands of inexperienced lawyers, and matters are made worse by the knowledge that the aid of the specialist cannot be got. No fund for such special cases is available in Scotland. Were it in existence, several of the verdicts of recent years would have been different. In some of the worst cases there was practically not the semblance of a defence.

It is in this direction a change is needed. In regard to such cases I would venture to point out some of the judicial fallacies that have arisen. One hears the occupant of the Bench sometimes speaking of the "wilful" nature of the drunken attack, the "voluntarily" induced state of mind of accused, and not least that the death sentence is a "terror" to drunkards,

In none of these views can I concur. Can a drunken man do a "wilful" act? I should be inclined to think that this is highly problematical, and that it does not even afford that presumptive evidence required in a court of law. Much might be said against the theory of "voluntary" drinking. Who can say with a degree of certainty in the advanced stage of a chronic drunkard's bout that the drinking was voluntary? for that would imply the certainty of an absence of latent or patent physical and mental degeneration induced by the vicious or the diseased habit. The former in time merges into the latter. All is uncertainty. Then there is the supposed deterrent effect which the scaffold is said to produce in the minds of drunkards. There could be no greater delusion, and drunkards were as numerous on the next "pay day" as ever they were, and deal out violence as freely and as maniacally as ever they did. The marvel is that, instead of having thirty indictments for murder every year, there are not 1,000, and as a consequence capital punishment multiplied a thousandfold. The violence of the drunkard is not measured, so great is the mental disturbance of the senses and faculties. It could not be otherwise real; consciousness either does not exist, or is of the dimmest. The intoxicated authors of crimes of violence are insane; the duration of the insanity from a medico-legal point of view is of no moment, and by the criterion of a possibility laid down in 1843, the drunkard should not be responsible, and would not if the expert looked at the matter from the point of view now submitted. But if this view be not accepted, then the crime should be reduced from murder to culpable homicide, as is the case in many countries. Some Scottish judges view it in this light. If "insane at the time" were proved, there would still be the protection for society by detention in a safe place of custody.

Dr. Blandford remarked with regard to the vexed question of responsibility and knowledge of right and wrong, and the nature and quality of the act, that many lunatics knew right from wrong, but they knew it as lunatics. A dog knew right from wrong, a child knew right from wrong, but knew it as a child. A lunatic knew right from wrong, but the knowledge was that of an unsound, not a sound mind. This was the point to be proved. It might be right that he should be held to be responsible to a certain extent—and it would be for the benefit of many lunatics that they should be held responsible to a certain extent—but instead of hanging a man who committed a murder through drink, he would send him, not to Broadmoor to smoke his pipe for the rest of his life, but to penal servitude, where he could do some useful work.

Professor Glaister said that he generally accepted the propositions laid down by Dr. Mercier, but he was not quite sure that they would all be agreed as to the degree of acceptance. Any amount of general discussion on the general question might prove largely interesting and of some value, but, after all, when the responsibility of a given person for a given crime became a question of importance, perhaps of death, then only did the importance become of greatest significance. In his view there was less possibility of injustice being done to the insane than to the public He was of opinion that the growing sentimentalism of the public regarding the responsibility of certain criminals, shown by petitions for modification of sentence and *post hoc* pleas of insanity, was a distinct danger.

DR. ALEX. ROBERTSON said that in the early part of his professsonal career he had published a paper entitled "Modified Responsibility in Mitigation of Punishment," in which conclusions practically the same as those of Dr. Mercier in criminal cases, especially those of murder, were advocated. It appeared to him that of late years judges and juries had made very full allowance for mental defect or disorder, when these were proved to exist in criminal cases, and that justice was done. He regarded the proposition maintained by Dr. Sutherland as dangerous to society. His proposition was that if in a condition of drunkenness one should murder another, the mere fact of his mind being disordered by alcohol—in other words, that he was intoxicated—should reduce the charge against him from murder to culpable homicide. Dr. Sutherland appeared to advocate a change in the law to that effect. If such change were made, would there not be a temptation to anyone who had a feeling against another, probably known only to himself, to take two or three glasses of whisky, feign full intoxication, and kill the man against whom he had this feeling? For he would comfort himself with the thought that in any case he would at any rate not be hanged. But, even though there was no question of feigning, it was very doubtful, in the case of any drunkard who killed another when drunk, whether the charge should be modified. In all such cases the criminal had many times previously been violent under drink. It was incumbent on all who were dangerous under drink to refrain from its use; for, if they took it with that knowledge, they were clearly culpable and responsible for their acts. All such cases might safely be left to the common sense of juries.

SIR WILLIAM GAIRDNER, speaking not as a specialist, but as a teacher of the art of medicine in general, said what he had consistently taught had been in accordance with Dr. Mercier's doctrine. What he had held and taught all along was that there never could be bare justice in regard to the insane until there was a different form of verdict allowed from the present. The jury could say that a prisoner was guilty or not guilty because of insanity. He desired that there should be a third verdict allowed—guilty, but insane.

DR. CLOUSTON contested Dr. Mercier's position that the stoppages of indulgences constituted punishment in any sense of the term. It was certainly not punishment in a legal sense, and he considered it would be a dangerous thing to talk to the staff of the punishment of a patient. In all ages the proposal to adjust a punishment in proportion to the responsibility of a man who was admittedly defective in mind through disease of the brain had been found exceeding difficult. With regard to the great question of modified responsibslity at law, they would require to go to the lawyers and convince that clear-headed set of men that the whole law of the land from the time of the Conqueror downward should be changed in principle. If punishment was regarded as a deterrent from crime he could not concur with Dr. Mercier's opinion that the partially insane would be in any way prevented from doing criminal acts by such graded punishments. He believed it would be a good thing if they could devise a verdict by which insane persons should be withdrawn from public life without being sent to Broadmoor.

Dr. Mercier replied to his critics as follows:

He held to his opinion that the withdrawal of privileges was punishment. At any rate the infliction of a pecuniary fine was punishment. When one of Dr. Sutherland's drunkards stood in the dock on Monday morning the magistrate inflicted upon him a sentence of five shillings or seven days, and five shillings was the equivalent of the seven days and the seven days was the equivalent of the five shillings. Both were equally punishment. He was surprised after the praises of the Scotch law to which he had listened, to find that in at any rate one respect the despised English law was superior to the *jus civile*. Dr. Clouston had said that we should have run counter to the whole course of the law as it had existed from the time of the Conqueror downwards. But in England a verdict of guilty but strongly recommended to mercy could be returned, and that recommendation was considered and effect was given to it by the judge. Having watched the course of criminal trials very closely for some years he was of opinion that judges and juries were more and more inclined to consider the mental condition of the prisoner and to admit the plea of insanity, not in total exoneration, but in mitigation of punishment.

The error into which Dr. Mercier falls is in his assumption that an insane person is responsible at all, and endeavoring to formulate a plan to punish the insane person for acts which, in a sane person, would be reprehensible and under the ban of the law.

By the law of England and of all English speaking countries no insane person is responsible at all for his acts.

Concede the insanity of the accused, and he is at once outside the pale or ban of the law and not under its punishment.

This is elementary, and was the law of England before Hatfield's case, and before the act of MacNaughten.

Dr. Mercier's theory would constitute an asylum superintendent into a tribunal, to not only define the grade of the offense, but to graduate and administer the punishment to the insane in our asylums.

His claim that all the insane should be punished for wrong doing, in some form, is an open violation of the law of England.

None of the special pleading in the celebrated opinions of the judges that followed the case of MacNaughten, went to this extraordinary length.

When the English commissioners wrote of the act of a certain superintendent, that he had been punishing the insane, they meant to indict that official for a violation of the law of England.

Under no circumstances has the superintendent the lawful right to punish an insane person. Why? Because by law an insane person is not responsible for his acts before the law.

Baron Bramwell was the only judge upon the English Bench who ever had the nerve to justify the punishment of the insane. He did not do it, however, judicially, but he did so over his own signature in the journals of his time.

The attempt to make the "right and wrong theory" the test of the responsibility of the insane—unheard of before the judge-made law of the House of Lords movement—underlies the fallacy of Dr. Mercier's position.

Dr. W. H. Hammond, in this country, held to similar views. Speaking of Guiteau, who had assassinated the President of the United States, he said, "He is insane, but hang him."

There being no appeal in England from the conviction of an insane person, like Gouldstone or Cole, there has been no opportunity, of which I have any knowledge, to have the opinion of the higher courts taken upon the question of the validity of the so-called "right and wrong" test in determining the insanity of an accused.

It has been held by some judges to be the test, not of insanity, but of "Legal responsibility."

There was not a superintendent of an asylum, who listened to Dr. Mercier's paper, who does not know that many of the insane in their institutions know right from wrong, and can fully understand the nature, character and consequences of the act of homicide.

This should forever preclude that knowledge, as a criterion of responsibility. It is a complete answer to Dr. Mercier's position as to punishment of the insane, that no law of England now justifies it, and no English parliament would ever make such a law. Who shall graduate the punishment according to the ideas of Dr. Mercier, and give forty stripes to one, twenty to another, and only a reprimand to a third, or withhold his tobacco?

The unwritten law of all lands as to the punishment of the insane is, that it is forbidden, because the insane are not responsible. Their acts lack every element of crime. They are innocent of criminal design, and to punish them for wrong doing, is monstrous and illegal.

The German professor well said, "If any blows pass between the insane and his physician, or even keeper, let the latter be the anvil which receives them, and never let an insane man be struck or punished."

HYPNOTISM.

At the Session of Psychology, British Medical Association, Dr. T. S. Clouston, F. R. C. P. Edin., President, in the chair. Dr. J. Milne Bramwell, M. B., C. M., read a paper entitled "The Phenomena of Hypnotism, and the Theories as to its Nature."

Dr. Bramwell cited extensively cases from his private practice, and also experiments, in the phenomena. He treated of the following heads: Volition in Hypnosis, Spontaneous Mental Action in Hypnosis, Self Hypnosis and Self Suggestion, Memory, Susceptibility, Concentration of Attention, Dangers (which he claimed not to exist), Braid's Theories, a summary of nine of which he critically reviews and examines, Modern Hypnotic Theories, and he treats at length of "Automatism and Crime;" treating of the schools of Nancy, Bernheim and of Frederic Myers, and concludes as follows:

SUMMARY OF OBJECTIONS TO THE THEORIES OF THE NANCY SCHOOL.

I. The condition can not justly be described as one of monoideism, because many phenomena can be evoked at the same time.

II. It can not be explained by the concentration of the attention upon a single point, because, again, many phenomena can be evoked simultaneously.

III. Suggestion does not explain hypnosis; this is merely the artifice used to excite its phenomena.

IV. Hypnosis can not be explained by a supposed general analogy between it and the normal sleeping and waking states; because:

(*a*) An analogy, no matter how successfully established, between two sets of phenomena, by no means explains either of them; and

(*b*) Many important points of difference exist between the two sets of phenomena described as analogous.

V. Arrested or impaired volition is not characteristic of the hypnotic state. Thus:

(1) I have never seen a suggestion accepted in hypnosis which was in opposition to volition as it existed in the waking state.

(2) I have observed that suggestions could be resisted as easily in the lethargic as in the alert state of somnambulism.

(3) I have noticed increased refinement in hypnosis; subjects have refused suggestions which they would have accepted in the normal condition.

(4) I saw Camille refuse a suggestion from mere caprice.

(5) Examination of the mental condition in hypnosis revealed the fact that it was unimpaired.

(6) The arguments of Bernheim are devoid of value as they are founded exclusively on cases where (*a*) a simple and harmless act has been assumed to be thought criminal by the subject, because the operator has stated it to be so, and (*b*) where the subject has permitted something in hypnosis which he would probably have submitted to in the normal state.

(7) The influence of the operator may be entirely eliminated, and the subjects trained to evoke the condition and its phenomena by means of self-suggestion.

The theories of the Nancy school, particularly those of Bernheim, must be regarded as falling short of the point which Braid had reached, and show, especially with regard to suggested crime and *rapport*, a reversion to earlier mesmeric types.

The Theory of Frederic Myers.

There is one other theory to which I wish to draw attention. This, instead of attempting to explain hypnotism by the arrested action of some of the brain centres which subserve normal life, would do so through the arousing of certain powers over which we normally have little or no control. This theory may be regarded, I think, as a development of Braid's latest views. Its earliest and clearest exponent is Frederic Myers, and, as he is here in person to represent it, I do not propose to say more than a word in reference to it, namely, that although it forms an advance on all previous theories, it does not fully explain two important points: (1) The origin of the powers of the secondary consciousness, and (2) the connection between the methods of inducing hypnosis and the extraordinary phenomena which follow.

Conclusion.

If Braid and Myers have done much towards giving us a clearer idea of the hypnotic state, they have also added to the difficulties of explaining it. A conception of hypnosis which limited its manifestations to simple automatic movements was comparatively easy to explain. The hypnotic subject who, while he has not lost the physical and mental powers of his waking condition, has acquired new and far-reaching ones, presents a very different problem. How he acquired these powers and why hypnotic methods should evoke them are questions by no means easy to answer. But normal life contains many problems, both physiological and psychological, which are yet unsolved, and some, such as casual connection between mental and physical states, which are apparently insoluble, and while this is so it would be unreasonable to expect a complete explanation of that still more complex state, the hypnotic. Further observation, however, is always giving us clearer insight, if not into the central problem itself, at all events into the phenomena which characterise it. What increased practical advantage this may give us in curing disease, alleviating pain, or improving moral states, time alone will show.

As the points I have referred to are numerous, I may perhaps suggest the questions I consider the most important. These are:

(1) Are the therapeutic results of hypnotism valuable and lasting?

(2) Is its practice in the hands of medical men acquainted with the subject attended with danger?

(3) Are the Nancy theories satisfactory, particularly in reference to so-called automatism and crime?

(4) Are the phenomena of hypnotism due to the intelligent and voluntary action of a secondary consciousness?

The paper was discussed by Frederic W. H. Myers, Hon. Secretary of the London Society for Psychical Research, who spoke first of "The Psychology of Hypnotism," then of Hypnotism and Hysteria, Submergence and Emergence, Hypnotism and Genius, Hypnotism and Sleep, Hypnotism and Sleep-Waking States, Suggestion and Self-Suggestion, and concluded as follows:

The question for us proprietors then, is how we can best get at our potent but secluded foremen; in what way we can make to our subliminal selves effective suggestions. And here, I think, we are at the present at the end of theory. We must look for guidance to actual experience; not to the experience of the hypnotic clinic alone, but to all forms of self-suggestion which are practically found to remove and soothe the pains and weariness of large masses of common men. Apart from recognised forms of hypnotic suggestion by others, two popular forms of self-suggestion may here stand, for brevity's sake, as types of the rest. Each of these appeals to deep-seated faiths; each is preached in a crude extravagant form from which the man of science turns with repulsion.

The healing fountain of Lourdes draws its prestige from the ancient belief in beings higher than man who concern themselves with even the details of man's physical welfare. So-called Christian Science—or mind cure, to use its less presumptuous name—while still relying on Christian revelation, appeals most directly to the optimistic instinct in man, maintaining that pain and evil are non-existent shadows, and that the only realities are love and joy. The conception of the miracles of Lourdes is too mediæval, perhaps, to maintain itself for long. The vaguer impulse which prompts to mind cure may prove more capable of adaptation to whatever hereafter may be learnt as to the true relation between man's central will and his bodily organism.

Questions like these as to the relative efficacy of various self suggestions belong indeed to the inmost meaning of hypnotism; but they lie beyond the facts with which the physician needs at once to deal. What is now to be desired is that medical science should recognise that a new task has opened before her; that these hypnotic artifices, empirical as they may be, do yet lie in the true path of therapeutic progress; that hypnotism is no more a trick than education is a trick; but that just as education develops observation and memory, through alert attention, so hypnotism develops organic concentration and recuperation, through their adjuvant phase of sleep.

Finally, if beneath the fanaticism and the extravagance of men blindly seeking relief from pain some glimmering truth makes way, that truth also it must be for science to adopt and to utilise, to clarify and to interpret. By one method or other—and her familiar method of widespread cautious experiment should surely be the best—science must subject to her own deliberate purposes that intelligent vital control, that reserve of

energy, which lies beneath the conscious threshold, and works obscurely for the evolution of man.

David Yellowlees, LL. D., M. D., Physician Superintendent, Glasgow Royal Asylum, Gartnavel, Glasgow, said:

I must express the highest appreciation alike of the striking and forcible address of Dr. Bramwell and of the highly philosophic and admirable paper of Mr. Myers. I believe the popular impression that some mysterious power resides in the operator is unfounded, and that the President, for instance, could exert the same influence as Dr. Bramwell over a hypnotised patient. The essential thing is the abnormal condition induced in a patient. My own experience enables me to believe even in the extraordinary cures related by Dr. Bramwell. I have obtained some remarkable results from my own endeavours. On the whole, however, these have been disappointing, chiefly because I have failed to hypnotise the very patients whom I could most have benefited thereby. I have not persisted in my attempts more than six or seven times, and the attempts have been chiefly among the insane, hence perhaps the very partial success. I cannot regard hypnotism as free from danger, nor think it posible that we could often reach and awaken "the subliminal strata of mind" without the risk of injury. I therefore utterly condemn the use of hypnotism for mere experiment or amusement. As to crime in relation to hypnotism, it may be true, as Dr. Bramwell has said, that a hypnotised patient would revolt from any manifest or gross crime, but might she not be told to sign a document, and very great evil thus be wrought?

M. Benedict, M. D., Professor of Neurology, University of Vienna, said:

Thirty years ago I began to experiment, and I did not dare to give my experiments the true name; I mean experiments on the line of Lasegue, who first induced me to make them. Some years later, at the time when Heidenhain excited the curiosity of the scientific world in these phenomena, I spoke of mesmerism as a species of "katalepsia artificialis." At that time we, who were interested in these facts, were treated as scientific heretics. Then came the delirious epoch of Nancy, in which no nonsense was too great to be believed. For some time I made no opposition, because paradoxical phenomena must excite paradoxical faith, to enter and to rest definitely in the beliefs of mankind. But this scientific movement was a danger, because it produced a mysticism propagated by novelists and other writers. Then I began to oppose them. To-day we can enter quietly into this discussion, and I will state precisely my experience and my conviction. Hypnotism is a fact, though in reality a very rare fact. Its principal and most interesting phenomenon is the condition of the hypnotised individual. When we eliminate the varieties, we can tell that the state of the psychological organ is a cessation of activity with conservation of the faculty, to be put in action by external influence. This state is a specimen of those which we observe in the winter sleep of the

marmots. I call this state in German, "Starrezustaende." The special intellectual state in hypnotism we could designate as "flexibilitas cerea intellectualis." In that state we can suggest to individuals ideas, sensations, and also simple acts, which need no farther complications with autonomous ideas and sensations. Such artificial suggestions can be deposited in the brain of hypnotics, so that they become active in a post-hypnotic state. This post-hypnotic phenomenon—memory—is not so enigmatic as it seems at first glance. I have proved that the suggested phenomena exist in the memory of hypnotics though they themselves know it not. When, after being awakened, different things and names are mentioned to them, they recognize well those which occurred or were mentioned during hypnotism. The suggestions appear suddenly in the memory, as happens in normal states. The difference is that the subjects do not remember the circumstances under which the suggestion was made, and further this form of suggestion acts perhaps more accurately than analogous incitations in normal states. As to the therapeutic value of hypnotism, there are rare cases which are really benefited by it, and in these this method may be superior as a sedative to all others. In such cases, principally of a hysterical nature, there exists a great liability of the nervous system to convulsions, to severe neuralgia, etc. For reasons which I have already published, I prefer the metallic magnet, which influences the patient as a hypnotic remedy. I would insist that hypnotism should not be abused, because it becomes dangerous to the nerves, to the intellect, to the strength of will, and to the character of patients. Hypnotism is also dangerous for the physician because he is easily deceived by the patients, and because he is exposed to great delusions. As the cases benefited are rare, there is no place for hypnotic specialists.

John E. Woods, Medical Superintendent, Hoxton House Asylum, London, N., spoke as follows:

Having now treated over 1,000 cases of disease by so-called suggestion I have, like Dr. Bramwell, come to the conclusion that it is a potent remedy, and that much good may be done by it if rightly employed. It is commonly thought that only functional nervous disorders, such as neuralgia, are benefited by this treatment. This is not my experience, and my chief object in speaking is to draw attention to the fact that it is applicable to a much wider field of disease. Let us not forget that the nervous system is implicated in almost all disease, and in so far as we can influence it for good we can benefit the disease. Take the case of organic heart mischief. At first sight it may appear irrational—I had almost said ridiculous—to treat it by suggestion. We must remember however, that in all cases of serious organic disease of the heart there is a strong nervous element; the patient is apt to be agitated, perhaps he sleeps badly, or there may be pain. Now, if we can soothe the nervous system, secure sleep, and remove pain—we can do all this—we are going a long way to improve the patient's condition. Moreover, in addition to these general effects we can prduce a di-

rect and specific effect upon the heart by placing one hand upon the epigastrium and sugesting that the heart shall quiet down and beat more slowly and calmly. Again, let us take such a disease as rheumatic fever. It might perhaps be thought that this was the very last disease to be benefited by suggestion, and yet, when we come to think of it, we shall find that the nervous symptoms in it are very pronounced; they are evidently produced by the toxins of the disease. Now, although we are powerless to touch the root of the disease by suggestion, we may do much to alleviate symptoms; by removing pain and mental distress, quieting restlessness, and securing sleep. We may even lower the temperature. This I have succeeded in doing not only in rheumatic fever, but in pleurisy, pneumonia, and typhoid. Nothing could more eloquently show the value of suggestive treatment in diseases other than the purely nervous. I will instance just one other organic disease that can be benefited by this treatment—tabes dorsalis—a very unlikely malady one might think to be improved by it. In a patient now under observation I can always remove the girdle and lightning pains, and improve his appetite, spirits, and sleep. As the result of this treatment, he can now walk much more steadily than before, and considers himself a great deal better than when he first came under observation. One word as to the necessity of sending the patient to sleep. This is, in my experience, by no means essential. I have cured many cases without it; we may often succeed in getting the patient into a receptive condition by making him relax all his muscles to the utmost, and composing himself to complete mental and bodily inactivity. I do not agree with Mr. Myers that hypnotic phenomena cannot be explained on physiological lines. Mr. Myers would appear to assume that the subliminal processes to which he refers are purely psychic. I contend that they must have a physiological basis. Time does not permit me to say more than this concerning Mr. Myers's valuable and interesting remarks.

Chas. A. Mercier, M. B., F. R. C. S. Eng., Lecturer on Neurology and Insanity, Westminster Hospital Medical School, said:

I desire to point out that the cases of suggested crime instanced by Dr. Bramwell are entirely beside the question. He has instanced cases in which it was suggested to a patient that the patient should commit a crime as a crime, but this is not the point. The point is, and the fear is, that a patient may be made to commit a crime which has been suggested to him as a purely innocent act. The common exhibition of the itinerant mesmerists is to make a patient eat a tallow candle on the suggestion that he is eating a stick of celery, or to drink soap and water under the suggestion that he is drinking beer. Why, then, might not a butcher cut the throat of a child under the suggestion that he is cutting the throat of a sheep? Why should he not be made to poleaxe a man under the suggestion that he is poleaxing a bullock? Or, to

put a more probable and more practical case, why should not a man be induced to sign an important document under the suggestion that he was signing something of a totally different character, and of no importance?

John Haddon, M. A., M. D., Hawick, said:

Dr. Haddon mentioned a case of convulsions in a young woman cured by the late Professor Hughes Bennett by prescribing a bottle of coloured water, and telling her that if she took it regularly she would have no more fits, and she had not. In this case there was suggestion only and no hypnotism. He related a case in which a man talking in his sleep was made to dance, etc., by his companions in the room. He was in a highly nervous state next day, and had to leave his work and go to bed. Dr. Hadden added that he had himself hypnotised a woman with hysterical paraplegia, causing her to sleep when drugs failed.

Dr. Bramwell said that he was convinced that no improper influence could be exerted during hypnosis. Patients could neither be induced to commit crimes nor to sign documents which they would have disapproved of in the waking state.

SUICIDE.

Before the Psychological Section of the British Medical Association, Dr. T. S. Clouston, President, in the chair, John Sibbald, M. D., F. R. C. P., Commissioner in Lunacy, read an interesting and instructive paper on "Suicide: Its Psychiatrical and Social Aspects," in which he spoke, First, of 'The Statistics of Suicide in England and Scotland," giving tables of suicide rates for thirty years in England, Wales and Scotland, from 1865 to 1894, also tables as to methods of suicide for the same period, in the same countries, by firearms, cutting and stabbing, poison, drowning, hanging, and otherwise, in which hanging took the lead, and the rates in England, in both tables, were very much higher than in Scotland, making a very important contribution to the literature of suicide for the British Islands.

Dr. Alexander Haig, M. A., M. D. Oxon., F. R. C. P., Physician to the Metropolitan Hospital and the Royal Hospital for Children and Women, discussed the paper and the general subject, under the place of "Suicides as a Result of Error of Diet," "Influence of Hour, Season and Food on Suicide," "Suicide and Sex," "Influence of Age," Occupation, Fever, Pregnancy, Weather and Season, Bright's Disease, Drugs and Diet.

Dr. John Macpherson, Honorary Secretary to the Section, in the absence of Professor Morselli, gave an account of the classification of the modes of suicide adopted in the paper, and showed that Professor Morselli concluded that the following characteristics should lead to the opinion that the suicide was in a morbid state:

1. Cruel and slow, or eccentric means of death.
2. Obstinate repetition of attempts.
3. Impulsivity in the form of an obsessing idea.
4. Apparent absence of motive.
5. Heredity of the inclination.
6. Sometimes extraordinary precocity of the suicidal impulse.
7. Simultaneous suicide of two or more persons, or on association with the murder of the whole family.

G. Fielding Blanford, M. A., M. D., F. R. C. P. Lond., Visiting Physician to the Newlands and Otto House Lunatic Ayslum, said: —With regard to the difference in the statistics of suicides of men and women, Dr. Blanford remarked that if we had statistics, not

of suicide but of attempted suicide, we should find the numbers would be much more equal. A large number of women attempted suicide, but had not the courage or strength to complete it. With regard to the apparent increase of suicide, and Dr. Sibbald's explanation by the less reluctance to acknowledge it, Dr. Blandford said that during forty years he had found the same reluctance to call it by its right name.

M. Benedikt, M. D., Professor of Neurology, University of Vienna, said:—With reference to the causes of suicide, that it could not be supposed that the use of meat and tea was a cause, or at least a principal cause, of suicide. In Italy a great part of the population did not use meat regularly, and tea was not known even by name there. The same was the case in the Alpine parts of Austria; and nevertheless in Italy as well as in the Alps, suicide existed. Another important question was how to prevent suicide. Professor Benedikt had frequently seen persons with a manifest tendency to suicide which could have been prevented if the law had given the necessary power for that purpose. The Austrian law required the intervention of a medical officer of the police, and the parents of these unfortunate individuals often could not make up their minds to send them to asylums at the proper moment. The ceremony and the preparation for the transport to the asylum was the most dangerous moment. The fear of incarceration among the insane accelerated the accomplishment of suicide. The physician should have the power to transport such persons without any preceding official ceremony, and against the will of the family, to an asylum under his own responsibility. Many suicides would thus be avoided. Among the causes of suicide he would mention two: (1) Conception without libido sexualis or by a man against whom a woman has a passionate antipathy. Such pregnant women had a great tendency to suicide under the aspect of melancholy. (2) In engaged girls, who feared being compromised in the moment of consummation of matrimony, not being intact virgins, or imagining themselves not to be. They became agitated or melancholics. They had a great tendency to suicide, and Professor Benedikt had known of cases in which suicide had been accomplished. Though he felt sure that this act would be performed he was unable to arrange measures to prevent it. It was a curious fact that persons might be found fainting and completely exhausted by hunger without attempting suicide. This proved that in general a pathological state must predispose to suicide, though it could not be denied that the despair of extreme poverty was one of the many causes of self-destruction.

David Yellowlees, LL. D., M. D., Medical Superintendent of the Royal Asylum, Gartnavel, Glasgow:—Believed that one form of suicide was certainly increasing—namely, that form of sane suicide in which a parent destroyed herself and her children to escape from her misery, and to save the children whom she loved from such a wretched life of poverty and want as hers had been. These cases did not seem to confirm Dr. Haig's idea that suicide

was due to overfeeding. Though his paper well deserved careful attention, the dogmas about diet threatened serious results. Starchy foods were utterly condemned, animal food was perilous, we must not touch alcohol, and we must never drink tea. If all this were true, the outlook was serious for the human race. He agreed strongly with Dr. Blandford that, if attempted suicides were registered, the suicidal impulse would be found equally strong among women as among men, or perhaps stronger. It was the accident of the proportion of cases in which the attempts was successful that had given the contrary impression. As to the persistence and ingenuity of suicidal attempts, though the presence of others was the great safeguard, it would not always deter; and he cited a case in which a man committed suicide in a dormitory in the presence of an attendant and a number of patients, and so peacefully and quietly that the death was not discovered until the patients were roused in the morning. He agreed with Professor Benedikt that there were certain cases which give the impression that they would commit suicide, but there was no more legal power in Great Britain than in Austria to commit such persons to an asylum unless they had shown some other overt symptoms of insanity.

Alex. R. Urquhart, M. D., F. R. C. P. Edin., Physician Superintendent James Murray's Royal Asylum, Perth:—Desired to congratulate Dr. Sibbald on having, in the fullness of experience, set before them reasoned conclusions supporting the doctrine of averages. He did not believe that the number of suicides had materially increased for many years past. In their special department they had reduced the suicides to a rate which might almost be considered negligible considering the circumstances under which they worked. He called to mind that, on the appearance of Dr. Haig's book, he had welcomed the opportunity of attempting to treat patients on the lines therein indicated. He was bound to say that the results were practically negative He had got no results demonstrably different from those previously attained. Of course Dr. Haig's views had been actively opposed, and however valuable they were, however suggestive, he had insuperable difficulty in adopting them universally. His experience was that uric acid was only one of many causes; besides, it would not fit the Scottish nation as a whole, where gout was much less frequent than across the Border. Dr. Urquhart concluded by referring to cases of "sane" suicide, and the legal attitude towards attempts at suicide. He was of opinion that "punishment" of those who attempted suicide should be abolished, and that "treatment" should be substituted. He would be glad to hear suggestions as to the methods which physicians should adopt when brought into contact with persons threatening suicide yet not technically insane.

John Macpherson, M. D., F. R. C. P. Edin., Medical Superintendent, Stirling District Asylum, Larbert:—Looked upon this subject from a somewhat different standpoint from Dr. Haig, although he freely acknowledged that his views on this subject proceeded

entirely from the suggestive writings and researches of Dr. Haig. He took issue with Dr. Haig on one particular point. He agreed with Grasset of Montpellier and Crocq Fils of Brussels that uric acid was an early symptom of degeneration. What was degeneration? According to Bouchard a metabolic deviation from the normal type of human being. It was accompanied by a functional and structural change in the nervous system, extending from weakness and exhaustion on the one hand to structural change in its architecture on the other. Added to this abnormality there was the toxic influence of disordered metabolism. Among what class of persons was suicide most common? Undoubtedly among the degenerate as a pure impulse, and among the insane chiefly as an impulse disguised under the "tedium vitae" of melancholia. He believed that the impulse to suicide was not a negative impulse dependent upon the loss of the instinct of self-preservation, but was latent in every man, and was only set free by the withdrawal of other and stronger impulses. The degenerate was the class in which obsession and impulse of all kinds was a predominant feature. Under the toxic influence of uric acid the degenerate became depressed, and in that state of mental depression the mind became subject to obsession and impulse, and especially the impulse to suicide.

Chas. A. Mercier, M. B., M. R. C. P. Lond., F. R. C. S., Eng., Lecturer on Neurology and Insanity, Westminster Hospital Medical School, thought:—That, whatever truth there might be in Dr. Haig's views, they did not touch the heart of the matter. Supposing that we could positively produce the suicidal tendency by injecting uric acid into the blood, and supposing that we could positively abolish the tendency by sweeping the uric acid out of the blood, we should still be far from a complete explanation of the matter. It was necessary to account for the production of a tendency to suicide. Why did not these causes produce exhilaration or some other mental state? Why was the tendency thus produced a tendency to suicide? It was obvious that, unless there was pre-existing in the mind of man some tendency to self-destruction, no amount of uric acid or of any other factor would account for its appearance. The question was whether there was not in the composition of the human mind as an invariable, constant, and integral constituent a tendency to self-destruction. Dr. Mercier believd that the human mind did necessarily contain such a factor, and that it got possession of that factor in two ways. There were two fundamental constituents of human nature which contained as an essential ingredient a tendency to self-destruction, and exaggeration, excess, or perversion of either of these might produce a craving for suicide. The first of these was the reproductive instinct. Reproduction could not take place without sacrifice of the reproducer. In primordial forms of life reproduction involved of necessity the destruction of the parent. In higher forms of life the destruction was not complete, but every act of reproduction brought the parent within measurable

distance of its end. The reproductive instinct involved inseparably the self-sacrifice of the parent, and disorder, exaggeration, excess, and perversion of this instinct might easily produce a direct and powerful tendency to suicide. Dr. Mercier suggested that a second origin of the self-destructive tendency was to be found in the primordial combative instinct, which cultivated a readiness for the individual to sacrifice himself for the benefit of the community, and an exaggeration or perversion of this instinct might account for a direct tendency to suicide.

David Nicolson, M. D., M. R. C. P. Edin., Lord Chancellor's Visitor in Lunacy, thought:—It was not necessary to go too deeply into the part played by uric acid in inducing suicide or to refine too much upon the metaphysics o: the question, and this ap- too much upn the metaphysics of the question, and this appearpeared to him to be the mental attitude of the individual to his circumstances and to the conditions under which he was living at the time he committed the act. Whether the view the individual took of his surroundings was normal and correct, or whether it was morbid and exaggerated, or whether it was an insane view, the balance of motives formed the test or criterion by which the desire to live, or the desire to die, or the desire to take his life was gauged. Whatever tended to modify the mental operations of the individual tended to modify his relationship to his surroundings, and in dealing with possible suicides this question became the one to which attention must specially be directed.

Herbert F. Hayes Newington, M. R. C. S., Physician, Ticehurst Asylum for the Insane, said:—That there was a small class of suicides not so far mentioned—suicide from temper or spite. A boy got a slap from his mother for some peccadillo, and proceeded to make "a hole in the water." These cases, apparently increasing in number, upset any settled foundation in uric acid or psychological tendencies or other matters.

John F. Sutherland, M. D., Commissioner in Lunacy for Scotland, said:—The statistics given by Dr. Sibbald, which were remarkable in several respects, revealed the gratifying fact that there was realiy no increase between the earlier and later periods selected, but there still remained a striking difference between the rate of England and that of Scotland. Was this a real difference or was the much greater ratio in England in a measure due to the coroner's inquest getting more at the truth than the informal and private inquiry in vogue in Scotland? It would be interesting to know the relationship, statistical and otherwise, of suicide to crime, insanity, and poverty. Did they run on parallel lines suggestive of an intimate connection? While figures were open to doubt in regard to poisoning and drowning, some being suicidal and some accidental, this objection did not apply to statistics of suicides from hanging, gunshot, and lethal weapons. Brouardel, the eminent medecin-juriste of Paris, said that in France the growth of suicides had advanced pari passu with crime and alcoholism. Dr. Haig's theory of the part uric acid in excess in the

blood played was worthy of more attention than it received. The mental depression produced by the uric acid diathesis was well marked, and must be reckoned with in any full consideration of the question.

Replies.

After a short reply from Dr. Sibbald, Dr. Haig said that he did not claim all suicides as a result of diet, but that the diet should be altered, and the effect of this studied. He did not agree as to degeneracy, but believed that some degeneration also was due to diet. Modification of diet must be tried completely, and all meat, eggs, and fish, as well as tea and coffee, left off.

THE INSANITY OF INEBRIETY.

At the same session of the Section, Dr. J. F. Sutherland, Deputy Commissioner in Lunacy for Scotland, read a paper entitled "The Insanity of Inebriety from the Legislative and Medico-Legal Standpoints."

He spoke of inebriety as a factor in insanity, and gave the history of the legislation in England upon the subject. He gave the statistics of insanity in town and country, and discussed the question of "The Liberty of the Subject" and the "Analogues in Legislation." In discussing "The Form of Insanity Produced by Inebriety," Dr. Sutherland said:

FORMS OF INSANITY PRODUCED BY INEBRIETY.

The insanities of inebriety number seven: (1) intoxication, (2) delirium tremens, (3) mania a potu, (4) dipsomania, (5) monomania of suspicion, (6) chronic alcoholism or dementia, (7) general paralysis. These dot not include the imbecility and neuroses which are often the offspring of inebriety. The number who suffer from the last three may be estimated, as, as a rule, they find their way to asylums. No so those from the first four, whose numbers at least reach to four figures. In regard to all seven insanities, the law has all along looked upon all save delirium tremens, dipsomania, and intoxication—which is a transient and temporary insanity—as an excuse for criminal acts; and in later years two of the most eminent judges who have adorned the Scottish Bench—the late LordPresident Inglis and the late Lord Deas—put delirium tremens in the same category as other insanities. The position of dipsomania is not quite so satisfactory; but it may be taken from the ruling of Lord Young in 1893, when a dipsomaniac was tried for the neglect and starvation of her infant child, that it likewise would be a good answer to a charge as barring trial or excusing the offender.

THE ATTITUDE OF THE LAW.

But the criminal law of this country—and in this respect our position is exceptional among civilised nations—is far astray in regard to its atttiude towards the authors of homicide, assaults, etc., committed by persons in a state of intoxication; not so, however, the interpretation of it, for some judges in England and Scotland have seen their way to reduce the crime of murder to manslaughter or culpable homicide. But this is not the attitude of all, and so we would like to know where we stand in this matter. Are psychologists and legal and medical jurists in the ancient gallery with Coke, the great legist of the seventeenth century, who admit-

ted the insanity (the voluntarius daemon), but considered it not only not an excuse but an aggravation; or with Hale, equally erudite, who termed the condition one of dementia affectata, which does not excuse unless the frenzy occasioned becomes fixed or habitual; or are we in the same boat with modern judges, who say that while it may not be an aggravation, it is not an excuse; or are we falling in line with enlightened lawyers and alienists, who look upon the intoxicated authors of crime as insane, and calling for detention in an asylum, or the intoxication as a factor in the case, reducing the crime to murder of the second degree, punishable by lengthened imprisonment?

Intoxication is insanity, fleeting it may be, but from the disorder of the senses and faculties produces as perfect a picture of insanity as is to be met with in the wide and diversified range of lunacy. The condition is fully covered by the one criterion of responsibility known to our law—that laid down by the Bench of Judges in 1843. The civil law of this country has looked upon it as insanity, or something akin to it, and as nullifying contracts, marriages, testamentary deeds, dispositions, etc. Why in reason should there be such a difference between the attitude of the civil and criminal laws?

CRIMES OF BLOOD.

Except the homicides and assaults of homicidal maniacs, 95 per cent. of the homicides and assaults of our criminal calendars are committed by persons in a state of intoxication, and some such have forfeited their lives for their crimes.

He concluded as follows:

My own feeling, in conclusion, is that the plea of insane at the time is a proper special defence, or, failing the acceptance of that, that the crime, after medical and other evidence has been had, should be reduced from murder to culpable homicide. This is all the more reasonable, having regard to the present state of the law, which ignores overt drunkenness and habitual drunkenness; and this other, that the defence of such persons indicted for grave crimes is often conducted without the aid of the specialist, and without any, or a moiety, of the resources at the back of the Public Prosecutor.

The paper was discussed by Dr. Geo. Wilson and Dr. Ireland, of Mavisbank, Polton, N. B., Dr. Templeman, Dundee, and Dr. Yellowlees, Glasgow.

RESOLUTION.

The following recommendation was moved by Dr. J. F. Sutherland, seconded by Dr. Yellowlees, and unanimously agreed to by the meeting:

That the Psychology Section of the British Medical Association at its annual meeting at Edinburgh in July, 1898, desires to press on the Council of the Association the urgent need of further legislation for the care and treatment of habitual inebriates, and its

unanimous opinion that no legislation will be satisfactory or effectual unless (1) it provides compulsory care for habitual inebriates from all classes of society, and unless (2) it prohibits the sale of intoxicants to known and certified inebriates. The Psychology Section unanimously urges the Council of the Association to use its powerful influence to obtain this much-needed reform.

EDITORIAL.

THE RIGHT AND WRONG TEST IN CASES OF HOMICIDES BY THE INSANE.

Prior to the year 1888 there had been much discussion among alienists and medico-legal jurists, on both sides of the Atlantic, concerning the binding force, upon American judges, of the rule adopted by the English bench, based upon the opinions of the judges, which had established what has been commonly known as the "Right and Wrong Test," as the rule to be followed in cases of homicides where the defense of insanity was interposed. At that period the entire medical profession in England had dissented, in the most emphatic manner, from the views and practice of the English bench upon this subject.

The ability of a lunatic to be able to discriminate between right and wrong, in the abstract, or to understand the nature and character of his act, and its penalty before the law, did not as a general rule determine the question of his sanity or insanity, and as the law of England forbade the punishment of a lunatic for acts which would have been criminal if committed by a sane person, the ablest medical men of England united in asserting their entire want of confidence in or assent to the "Right and Wrong" test as admitted by the bench, especially in England.

Sir James Fitz James Stephen, before his elevation to the bench, had gone farther and said more against this rule than any other prominent Englishman, on the law side.

Upon the medical side Dr. Henry Maudsley and John Bucknill had been foremost in assailing the action of the British judges, in these cases.

Convictions of insane persons had been obtained, however, by the law officers of the crown, in well-known cases like that

of Gouldstone and Cole, but none of these were executed, that I can remember, because the Home Office always interfered and sent the lunatics to Broadmoor. In America, however, in certain states, where the English system was followed, and notably in Pennsylvania, when insane persons were convicted and sentenced, they were occasionally executed, as in the case of Beach, and others.

Baron Bramwell, with a coolness worthy of a better cause, had, in a strong article, publicly favored the execution of the insane as right and proper, and especially for its deterrent effect upon other insane persons, and on very strong grounds, but not in accord with the spirit of the law in both countries; which absolutely forbids the punishment of an insane person.

Sir John C. Bucknill had appealed to the writer to reply to Baron Bramwell's article, urging that it should be made from the legal side, and that in the nature of things, no medical man in England could properly reply to the strange positions taken by that learned jurist, so novel and so entirely at variance with the medical view of responsibility of the insane, in this class of cases.

I appealed to the Hon. Charles Doe, then Chief Justice of the Supreme Court of New Hampshire, and the author of the decision, or who wrote the opinion of the court in State v. Pike, to give me his views upon the subject, for publication, in the then pending discussion.

Mr. Justice Doe was a remarkable character and a man of great learning and ability. He took a deep interest in the question. He corresponded with me freely, but he had an unsurmountable aversion to the use of his name, in any way, in any publication. This embargo he laid upon me most emphatically. He has said to me that after his death he did not care, but during his life he forbade the slightest allusion to his name.

I think it will be of interest to students of the subject of the responsibility of the insane, in cases of homicide, to give Judge Doe's reply to my letter of November 29th, 1888, which was written under the embargo that his death has raised.

In regard to Judge Doe's criticism of the late Chief Justice Stone's opinion in the Alabama case of Parsons v. the State, I have but a word to say: I do not think Mr. Chief Justice Stone at all dissented, or intended to dissent, from the prevailing opinion, in any wise, so far as the "Right and Wrong" theory is concerned.

Mr. Justice Somerville, who wrote the prevailing opinion, did not so misunderstand Mr. Justice Stone, nor did his associates upon the bench of the Supreme Court of Alabama.

Chief Justice Doe's review of Chief Justice Stone's opinion will be read with great interest, and the letter of Judge Doe is of great value, in a professional sense, and full of interest.

Justice Doe's use of the term "The New Hampshire Doctrine," in the discussion, is most appropriate and proper.

The action of that court, in 1869, was the first authentic judicial departure from the practice of the English judges since the case of Hadfield.

It was the pioneer movement in that judicial evolution upon the subject, that must become, in time, universal.

It is only a question of time. The spirit of the decision in the New Hampshire cases is in America, to-day, with rare exceptions, the dominant principle in determining responsibility of the insane, and it will soon be universal in its practical application.

The text of the opinions in State v. Pike, decided June, 1869, and State v. Jones, 50 N. H. 369, and Parsons v. State, 36 *Albany Law Journal* 326, ought to accompany this paper, but space prevents. I give Judge Doe's letter to the profession and the medico legal jurists, of both professions, with pleasure:

SALMON FALLS, N. H., Jan. 10, 1889.

Clark Bell, Esq.—Dear Sir:—Broken health and pressure of work is my excuse for not answering your of Nov. 29.

In my young days I adopted a resolution to abstain from everything but the study and administration of the law and to carry the practice to such an extreme as not to use my name, or allow it to be used, in anything outside of my regular daily occupation, and I have rigorously adhered to this rule of concentration, and think it has been useful. My studies have led me to a complete appreciation of the difficulty and value of your labors, but the results of my

rule of life have been such that I must beg pardon for adhering to it notwithstanding my entire concurrence in your enterprise, and my ardent interest in your success.

State v. Pike, to which you refer, was decided twenty years ago next June. During that time I have looked in vain for a noticeable attempt to show error in the New Hampshire law on the subject of legal tests of insanity. There have been decisions affirming the old test of knowledge of right and wrong in criminal cases. It has been said that in some cases insanity ought not to be a defence. It has been said in substance that the New Hampshire rule is impolitic and dangerous,—that if insanity causes a man to do something which he knows to be wrong and which would be criminal if he were sane, he should be punished for his mental disease.

Many things have been said. But since the decision in the State v. Pike was published I have seen nothing that can be regarded as a serious effort to grapple with the argument of the common law question, and show error in the New Hampshire rule. If any effort of that kind entitled to a moment's cnsideration in the judgment of a good common-law lawyer, has been made since the publication of State v. Pike it has escaped my observation.

I do not suggest that the legal argument in that case is unanswerable. It may deserve no answer. It may be beneath the notice of sound lawyers. I merely ask if you are aware of, or can you find anything, that a sound lawyer would regard as an answer, worthy of consideration. If you can find nothing of the kind, would it be well to ask your readers why those who reject the New Hampshire rule, have allowed twenty years to pass without making any noteworthy attempt to expose the error of it, or to attack it upon any ground of common-law priciple? The grounds of that rule are distinctly set forth in our decisions, and are in every library used by the judges and leading lawyers of this country.

If those grounds are too feeble to deserve an answer, let them go. If their feebleness will not consign them to oblivion, why has not somebody taken them up fairly, met them fully and squarely, and demonstrated their unsoundness by common-law argument addressed to the legal inteligence of the country? Why don't somebody assume that easy task now? How long will it be before the candid minds of the profession will demand a satisfactory answer to these questions? Such minds are not swayed by superficial or general allusions, or mere assertion. They insist upon argument solid, thorough and profound, going to the bottom of the subject, free from cavil and sophistry, shunning no difficulty and misrepresenting no position of an adversary. I merely suggest in the course of your writing on the subject, an appeal perhaps in the interrogative form, to the candor of the legal profession, for an explanation of the fact that twenty years have passed without any material answer being mde to the N. H. argument on the common-law question.

I call it "the N. H. Argument" because although physicians had previously become dissatisfied with the old English medical tests,

State v. Pike is the first judicial decision that I am aware of in which, upon thorough examination of the legal authorities, and the common-law principle, those tests were held not to be law, and a full affirmative doctrine asserted. If anything material has been added to the N. H. argument in the last twenty years, "N. H." is not a proper designation of the present substance of the argument. I am not contending for any descriptive words. For convenience I "N. H." to signify a certain definite common-law principle laid down in our reports. It is the shortest and most precise definition of the legal principal that occurs to me. And as we are in search of the true principle of the common-law there is an advantage in having a single word, or at most two or three words to serve as a sufficient name or designation and identification of the principle which we put forward as the true doctrine of the common-law. The "delusion test" in testamentary cases and the "knowledge of right and wrong" test in criminal cases are names that convey a sufficiently accurate idea of antiquated medical tests which many lawyers cannot accept as the true common-law principle. What short name or names are the best designation of the principle which you and I and many others regard as the true one? A mere negation of the obsolete medical theory is not enough. An affirmation of some definite proposition which you contend for as true, is indispensable. You must have an affirmative proposition, simple, plain and easily understood, which the court can give the jury as positive law, and which the jury can apply to the evidence in every case. It must be safe, practical and workable, and broad enough to cover the whole ground. What is that indispensable affirmative proposition? In what law books of authority is it laid down? What is the legal idea of it? What verbal formula best expresses the idea? And what name or names will give the shortest description or designation of it, best adopted to the argumentative purpose for which you want to use them? A geographical name sometimes describes legal rules. We speak of English doctrines and American doctrines, of the Mass. rule and New York rule on some subjects. And if either of those States had adopted your view, they might be expedient names. They would carry some weight as authority. In this case there is no geographical name of weight that can be appropriately used. If you can invent some name that will be as significant as "delusion test" or "knowledge test" you will gain a great advantage. How can you adopt the word "test" as a part of the name of your doctrine, since "test" has so used and so long used, in this conection as to mean a test of insanity? Your doctrine is, not that the common-law prescribes a test of any disease, physical or mental, but that an act caused by mental disease is not a crime, a contract or a will. What short name or descriptive word will suggest that idea as closely as "delusion test" and "knowledge test" suggest the old exploded medical theories of England?

Pardon me this long discourse. You have brought it upon yourself by requesting my views on certain points. Instead of com-

plying with your request, I refer you to my opinion in State v. Pike and make the foregoing suggestions as to some points of practical importance in the conduct of your battle for your faith.

When I speak of the N. H. Argument, I do not, of course, mean Pike's case merely, but also State v. Jones. 50 N. H. 369, where the argument is much better put by Judge Ladd, one of the ablest lawyers of the country.

The first four head notes on page 370 of Jones's case are a pretty full statement, in the necessary affirmative, workable form of the N. H. doctrine. That form was in substance given to the jury Oct. 1868 in Pike's case (49 N. H. 402) was given literally in Jones case (pp. 372, 373) and has since been given in all cases in this state as settled law. My name is much associated with that form in this state as settled law. My name is much associated with that form in this state where it is understood that I suggested it at the trial of Pike's case; but Judge Ladd's opinion will be found far more effective and convincing than mine. The two opinions together constitute what I mean by the N. H. argument.

49 N. H. is badly printed. The reporting and proof reading were wretched; and you will need to bear that in mind if you make any use of State v. Pike. Without calling your attention to palpable misspelling, I suggest some instances in which the reporter and proof reader did not improve the copy.

Page	Line
429	9 For "and" read "or"
429	12 Join the two paragraphs
431	25 For "sanity" read "insanity"
433	7 Insert quotation marks before "I"
435	7 from bottom. Omit "That"
436	10 from bottom. The two paragraphs should be united in one.
437	2 from bottom. For "Wills. read "Wils."
439	Last line. Insert "Ann Reg. 1850" and the page of that book where the case is stated.
440	At the end of the first paragraph insert "Ann Reg. 1863" and the page of that book where the case is stated.
443	Line 7 from bottom. Omit "Legal"

I have marked the above in my copy of 49 N. H. and there are probably other important errors which a careful reader will detect besides mere misspellings. I have not access to the "Ann Rg" to day and have no mem of the omitted pages. There are probably many blunders and errors of all kinds in the opinion for which the writer is responsible; but it ought not to suffer from the mistakes of the reporter and proof reader.

The 3rd. point of the opinion is the only one now in question and that is too long for general reading. It is 13½ pages 429-42, and that is more than anybody is likely to read unless he is professionally or officially at work on a particular case or is engaged in the task of attacking or defending the old medical tests, or the N. H. rule. The

whole of the long paragraph in page 431 should I think be omitted. It relates to the burden of proof and tends to rouse the hostility of all courts that put the burden on the defendant. The bad effect of that paragraph appears in what Stone C. J. calls his dissenting opinion in Parsons v. State, 36 Albany Law Journal 326. He thinks he dissents because he fears that the heresy of moral insanity lurks in the new doctrine, and he is inclined to doubt the soundness of any view entertained by any court who differ with him on the burden of proof. The class of people influenced by such considerations is very numerous; and you don't want to alarm or irritate them unnecessarily. Therefore I should certainly omit the paragraph on the burden of proof.

If I understood Judge Stone rightly he does not dissent on the general principle. I suppose (though I am not sure) that his 3rd proposition is a statement of his opinion. If it is, he agrees with the N. H. Court on the general principle but differs on the burden of proof, which is a point wholly irrevelant on the general question and should be rapidly excluded from the discussion because it tends to distract attention from the real issue and throw the whole controversy into confusion. I would not even state what the different views are on the question of the burden of proof. The average reader will be in danger of confusion if you allow anything to divert him from the real question which is whether the knowledge test or the N. H. rule is the true legal principle. Omit and protest against anything that is not an argument on that question, and you will strengthen your cause.

I certainly would not admit that the Ala. Court is not unanimous on the general principle. Not only does Judge Stone fail to take any notice of the N. H. Argument but he advances no theory that I can understand unless it is his 3rd proposition,which.excluding the irrelevant question of burden of proof, is an admirable statement of N. H. rule. His fear of the doctrine of moral insansay "N. H." to signify a certain definite common-law principle laid esy on the subject of burden of proof are supplemented by a suspicion that some new medical refinement is concealed under our rule, and under the agitating influence of those combined notions he insists upon calling himself a dissenter lest he should be responsible for something dreadful, he knows not what. The beginning of his last paragraph is a master piece. His position as he states, it, is such that it is necessary, for him to say "This is a dissenting opinion" but he intimates "no opinion" &c., &c., and will leave the question of part to the jury. Many people called upon to examine a new legal view are as much bewildered as Lord Kenyon was in Hadfield's case. Therefore it is necessary to say nothing about moral insanity and burden of proof, and for authority, put emphasis upon judicial decisions, and not upon medical opinion. But for those three irrelevant topics I infer that Judge Stone would have been silent in Parsons v. State. As it is, I count him on our side: for I can but think his 3rd proposition is a statement of his opinion and if he had seen any answer to the N. H. Argument he

would not have suppressed it. He was surely in a position, and in a frame of mind, to demolish us if he thought he could do it. He keeps at such a distance from the argument he is evidently resolved to be reckoned among the non-combatants. Here I get back to my point of departure—Why don't somebody take up our rule and show in any argumentative manner that it is an unsound view of common law principle?

The freedom with which I have written shows my certainty that you will regard this letter as confidential.

It is a homely epistle, not fit to be sent; but my health and time promise nothing better. Wishing you all the success which your zeal and the worth of your cause deserve, I am very truly yours,

C. DOE.

THE INSANE CRIMINAL.

Dr. J. B. Ransom, the able Physician of Clinton Prison at Dannemora, N. Y., is the author of an able and interesting article on this theme, from which I make a few extracts :

The Insane Criminal.—There can be no scientific distinction made between the criminally insane and the insane criminal. The distinction is only an associate one and refers to conviction. True criminal science knows no distinction between the incarcerated and the criminal at large. To him the abnormal condition which controls a criminal act, constitutes the criminal identity. The courts have shown their utter inability to differentiate between the insane criminal and the ordinary. If a man has within him a tendency sufficiently strong to cause him to commit offences against person or property, he is a criminal, and if such depends upon an abnormal mental condition, he is an insane criminal; the only distinction necessary to make is in a penologic sense, and that is the distinction between the insane convict and the insane criminal. The question turns upon the point of insanity related to responsibility under the law. To be able to distinguish between the born criminal with the abnormalities of structure and psychic disturbances, and the insane criminal, is sometimes a difficult thing to do, and I cannot agree with those who deem it an easy matter to decide, so intimately mixed are the inherent tendencies and anomalous conditions present in the two types; so frequently the same conditions are manifested in both that it is sometimes very difficult but not necessarily impossible.

Garofalo's distinction is a good one, and is applicable to a large number of cases. He makes the distinction, "with the insane criminals, that in the act itself lies the satisfaction, not the object, while with criminals the act is only a means to an end." To the former crime is a pleasure, to the latter a paying business necessitating, it may be, disagreeable acts.

Criminals of unsound mind can not all be classed in the same category if we are to study them intelligently; indeed, it is difficult to make a classification which is always distinctive.

For my own convenience I subdivide insane criminals into five classes:

1. The paranoiac, who are persons exhibiting self exaltation, systematized progressive delusions, writers of insane political documents, and with tendencies toward political homicides which are usually consistent with their delusions. Guiteau and Prendergast are good examples of this class.

2. The psychic epileptic. A class not numerous and who commit the unexplainable murders. This class of criminals commit outrageous murders during epileptic seizure, and which seems utterly inconsistent with the circumstances and the perpetrator, and can not be judged by the ordinary psychology of criminals. (Ferri.)

3. The phrenasthenic or psychopathic criminal, who is one of irresistible impulse, feebleness of will, and with morbid tendencies to private murder. This class of criminals commit atrocious crimes, apparently without motive and purely from the force of impulse, or from the satisfaction of the criminal act itself. Good examples of this class are Jack the Ripper and Mrs. Halliday.

4. The morally insane or reasoning phrenasthenic. The only difference between the morally insane or reasoning phrenasthenic is the absence of delusions, and their perversions are of the sentiments and affections. (Regis.) "They represent a small class and are the individuals who apparently with full reason and judgment commit themselves in an unconscious and frequently paroxysmal manner to indulge in errors of conduct and immoral acts which are really pathologic, and although apparently less insane they are more profoundly degenerate than the delusion cases, and have a more marked degree of mental infirmity and imbecility."

The fifth class of insane criminals "consists of a large body of persons tainted by a common and clinic form of mental alienation, all of whom are apt to become criminal. This class of insane criminal are sometimes identical, and sometimes opposed to the born and occasional criminal." (Ferri.) This class commit various crimes under insane impulses and are commonly degenerates. It is seldom that a criminal of this class commits an atrocious crime unless under an impulse of passion.

These classifications are more a matter of convenience and should not be arbitrary; practically, the whole importance of the determination of the criminal insanity or sanity devolves upon the question of responsibility, and classification is only useful in arriving at correct conclusions as to the individual's responsibility under the law.

In a strictly legal sense there is no insane criminal. Concede insanity, and the homicidal act is not criminal. The law provides that an insane man is not responsible for his acts.

The act of the insane, which in the sane would be criminal, lacks every element of crime. The actor is impelled by an insane delusion, for example, and is not the result of any criminal intention.

A sane man, who has committed crime, may thus become insane, either before or after conviction for the crime. He may be rightfully called an insane criminal. If the insanity develops before his trial, the law would suspend his trial while the insanity continued. If the insanity came after conviction, he should be treated as an insane man, not as a criminal.

The medical mind frequently views the question of insanity as one of responsibility only. To the legal mind—insanity conceded, responsibility ends.

It is not a question of whether the alleged criminal has been convicted, or is at large. An innocent sane man may suffer conviction. An innocent man, even if insane, may be convicted. The guilty man may be acquitted and at large.

If a man is clearly insane, he is not a criminal, even though "he has within him a tendency sufficiently strong to cause him to commit offences against both person and property." He needs care, and the State has the right, and it is its duty, to protect him from the consequences of his own mental condition.

Dr. Ransom says, "The courts have shown their utter inability to differentiate between the insane criminal and the ordinary." Is this a just criticism? Under our system jurors pass upon the sanity or insanity of the accused.

It is a question of fact, usually for the jury—Is the man, or was the man, insane at the time the act was committed?

If the jury says, by its verdict, he was insane, then the court sends him to an asylum for the treatment of the insane.

If the verdict is that the prisoner is guilty, the effect of that verdict is that he was not insane, and the court sends him to prison.

The courts rarely, if ever, pass upon the question of fact. Some judges have rarely done so in habeas corpus proceedings, where no jury has been called or defence ordered, the court, in

that case, passing upon the question of fact, which in all other cases is the peculiar province of the jury.

If the jury err, and pronounce an insane man guilty, he comes into the prison, and under Dr. Ransom's observation, by the side of the criminal, who after conviction becomes insane. But there is, in fact, a wide distinction between them—the one is absolutely innocent of crime, because he was insane at the time of the act, and he is in no sense a criminal in fact. The other, who is a criminal in the eye of the law, has "a disturbed interval" in his sentence, much as the same mind is said, at law, to have lucid intervals.

It is Dr. Ransom's fate to look at these two faces in a prison as much alike, because both are under the sentence of the law.

THE FRUITS OF THE WAR.

No war of modern times, if of any times, has resulted in such marvellous victories as have crowned the American arms in the recent war with Spain, with so little loss of life.

None that has, or will have, a greater effect upon the advance of what we may call American ideas and principles, in the minds of mankind.

Spain, not having the sagacity to perceive in advance the inevitable, true to her past, kept on until she lost Cuba, Porto Rico, in the Atlantic, and the Philippines in the Pacific, and almost her entire fleet.

The United States of America advances in the world's estimation much more than Spain has fallen. There can be little room for doubt as to the future, no matter whether the Commission agree or not.

It is a matter of Destiny—we have the Philippines, and it will be an insurmountable task for us to refuse the trust that has been placed in our hands—the destiny of the natives of those islands.

The surrender of them to Spain would be high treason to the sentiment and spirit that caused and inspired the war.

To give them, or any of them, to other nations, would cause interminable disputes, if not provoke war, with our friends among the nations.

Our flag is at Manilla, and it will remain there.

Mr. Carl Schurz would be in despair if he were compelled to formulate any plan under which we could withdraw it without war or a lasting scandal and offense to our own people.

It is simply impossible. The Commission was fortunate because it ended bloodshed, but it cannot result in anything that would efface the memory of Dewey's victories, or pull down that flag that God had planted bloodlessly over the Philippian capital.

As to Cuba—Spain has ceased to be longer even a factor in her destiny.

The ablest thinkers in Cuba believe that the hour has not yet come for her to attempt self-government, without the protection of our government and flag.

An American protectorate, is the immediate solution for Cuba and Porto Rico.

Crossing the Atlantic recently with a Dutch captain, G. Stenger, of the *Marsdam*, who is a thoughtful observer of affairs, on the safe and staunch Holland-American line, I was struck by what he said of the future of Cuba. He said: "Open the splendid lands and soil of Cubato foreign immigration, with a guarantee of protection by the American government, and a swarm of immigration would pour instantly into Cuba from Norway, Sweden, all Scandinavia Hungary, and even Holland, unlike anything known before in the history of emigration." This would form the nucleus of a population that would ensure permanency to a government based on the principles that underlie the American Constitution, and in a few years would solve the problem on which we are now thinking and pondering.

Our fleet must be quadrupled. We do not need a standing army of millions, as nations of our grade keep on the continent of Europe, but 200,000 men will be an imperative necessity,

and perhaps 250,000, aside from the National Guard as a Reserve.

SENSATIONAL JOURNALISM IN THE MEDICAL PRESS.

It is to be expected that the lay press, now that the war has ended, must have something scandalous to publish as to the conduct of the war, both of the army, the government, and the medical department; but there is no good reason why medical journals should join in the crusade of panic and calumny that now fills the air against the Secretary of War and the Medical Department of the army.

The assault of the *Medical Record* upon the Surgeon General was ill-advised, in bad taste, and productive of no good results.

The vigorous replies of Surgeon General Sternberg, of Surgeons N. Senn and Victor Vaughan dispose quite completely of these calumnies.

We publish a letter from Assistant Surgeon Frank W. Ross, from Camp Alger, Va., as a part of this peculiarly unpleasant controversy. The simple truth is, that the success of the American arms in Cuba is simply marvellous and almost unparalleled.

The conduct of the Secretary of War, who has so successfully conducted our troops to victory, deserves and must receive praise, not censure.

When we reflect that we have been compelled, by the pro-press of events, to depart from the policy of the President not to land troops in Cuba in the yellow fever season, and have conducted a successful campaign, and ended it in the dog days and in the hottest summer season, and that deaths in the hospital and camp from disease are not barely half what any expert would place them at as a pre-estimate; is it not a scandalous outrage to assault the successful officers for the administration of the war, while the world is ringing with the echoes of our lustrous victories, and to assail the Surgeon General and the medical service of the army, which time and results will demon-

strate will be the most remarkable part of the war, and greatly less than all military authorities would expect?

We have no sympathy with the promoters of these scandals against the Secretary of war, the Surgeon General of the army, the Commanding General, General Shafter, or the President of the United States. No matter what the lay press does, let the legal and medical press of the nation give praise to the army, the navy, and the officers, who have gained us such glorious victories and advanced the standard of our country at least half a century in the estimation of mankind.

THE HOSPITAL SERVICE IN THE ARMY.

We publish the following letter from Surgeon Frank W. Ross, of Elmira, N. Y., who has gone into the service, and who writes in reply to our inquiries as to the state of the medical service:

FIRST DIV. HOSPITAL, SECOND CORPS,
CAMP ALGER, VA., Aug. 20, 1898.

My Dear Clara Bell:

Your favor at hand. I am in the service and can speak from actual experience and observation.

The criticisms by the press, and the medical press in particular, have been unjust to the Surgeon General, who has worked night and day to keep pace with the rapid and unparalleled growth and movements of our army.

When we consider that, at Camp Alger alone, there has been encamped a body of "raw troops," undisciplined men for the most part, as large as the entire standing army of the United States in times of peace, we can see what eight or ten times that number, with no great increase in regular medical officers, must mean.

The sickness has been no greater, and no more fatal, than in civil life, in cities of the same size as the camps.

Every precaution and care has been taken, advised or ordered, by the Surgeon General in this field hospital, even detailing, personally, Mrs. Hogan, the food expert, the special mission to look after the diet of convalescents.

That it has rained, stormed, bridges washed away, and other unpleasant conditions due to the elements, is no fault of the Medical Department.

Individual instances of hardship are only the exception, not the rule.

The greatest complaints do not come from the very sick, mostly the shirkers.

The utmost care, the best judgment and talent obtainable, has been

called, and came to help us out, responding to the call of the Surgeon General. And most of the Acting Assistant Surgeons in the field are men of wide and varied experience, selected by the Surgeon General for their special fitness. All are hospital trained.

The greatest faultfinding has been because of unfortunate circumstances, over which the Medical Department has no control.

As I understand it, orders have been issued by the commanding officer in direct defiance of sanitary and medical laws.

Disregarding the rights of the Medical Department has caused much of the trouble.

At Santiago the cause of trouble was the undue haste of all to get into action, and no fault of the Medical Department, that our troops were too brave and too daring for discussion—went ahead of all the supplies, even the artillery, and met with much loss of life, because of the push and dash, which is bravery, even valor; but when we view it from the practical standpoint it was in reality foolhardiness. And for this the Medical department is censured by the public, the press and the profession.

I am in the field. I see the actual working and all the disadvantages. I can assure you that all our troops *are* cared for as well as could be done, taking all into consideration, in their own homes, and better than most would get, were they there; a field hospital is not a St. Luke's, but the results are just as good.

I speak from my own observation of these things, in the words of Virgil, "All of which I saw and part of which I was."

Cordially yours,

FRANK W. ROSS, A. M., M. D.,
Acting Assistant Surgeon, U. S. A.

THE BULLETIN OF THE MEDICO-LEGAL CONGRESS OF 1895.

We are glad to announce the Bulletin of the Medico-Legal Congress of 1895.

It contains a large number of illustrations of prominent officers and members of the Congress, authors of papers, and members of the Medico-Legal Society.

Each member of the Congress, who paid an enrollment fee, is entitled to one copy of this work, which reaches nearly 500 pages. The price to subscribers was $3.00. In case any members of the Congress does not receive his copy of this work prior to November 1st, please address this Journal on the subject.

The following are the illustrations of the work:

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WOMEN PHYSICIANS IN CORONERS' COURTS.

Dr. Frank Flood is Coroner of the City of Elmira, N. Y.

We clip the following from the *Elmira Star*, as a precedent for similar work:

The selection of a woman physician to attend the formalities which follow violent death is so uncommon as to be worthy of note. It has never occurred in this city or county until yesterday, and perhaps is not known to the profession in the state.

Dr. Frank Flood, the city coroner, has a theory that the remains of women dying under circumstances that call for examination should be viewed by women, whenever practicable, and the theory was put into practice last night when the terrible accident to Mrs. Dalrymple was reported to him. Dr. Mary Potts, one of the twelve women physicians so creditable to the city, was called and will testify before the coroner's jury.

An innovation of this kind seems to be founded on right principles, and in many cases will doubtless be grateful to afflicted families. And apart from the point of view it places Elmira at the fore in the onward progress of events and new ideas.

THE NEW ENGLISH VACCINATION ACT.

The Amendment was signed August 12th, 1898, and does not

go into effect until January 1, 1899, except the "Conscience clause," which goes into effect immediately.

The chief alterations have been summarized, by the *British Medical Journal*, as follows:

1. The period within which vaccination is to take place is extended from three months to six.
2. The operation is to be performed if required in the child's home.
3. The use of glycerinated calf lymph is to be encouraged.
4. The conscientious objector is not to be compelled to submit his child to the operation.
5. A recalcitrant parent cannot be convicted more than twice (for example, once under each of Sections 29 and 31 of the Vaccination Act, 1867, and

(6) If imprisoned he is to be treated as a first-class misdemeanant.

No provision for universal revaccination is mentioned, but the speeches of responsible Ministers give us to understand that the subject will demand their earnest consideration in the near future.

THE CASE OF DREYFUS.

The French government must open the prison door of this unfortunate, and give him a fair trial. The confession of Henry, and his suicide, throws a ghastly light upon the cage in which Dreyfus is confined in the Isle de Diable.

It is a higher question than the honor of the army, than hatred of a race or a religion. It is the eternal principle of justice that is involved.

If France stands and receives scars in the judgment of mankind, for the wrong done this officer, without instant reparation, she stains a banner hitherto luminous with glory and with victories. Give him a fair trial, and set aside a conviction tainted with both perjury and forgery, quickly, or the honor of France will be tarnished, so that no amount of labor or repentance can ever make it bright and lustrous as before.

VOLUMES IV AND V MEDICO-LEGAL PAPERS.

The following new subscribers are announced:

Library of the Court of Appeals at Syracuse, N. Y.
Hon. W. P. Letchworth, Portageville, N. Y.

We hoped to have been able to announce in this number that these volumes were ready for distribution.

They are in the hands of the binder, who claims to be delayed by some displacements of sheets, or losses of some parts of the work that may require to be reprinted.

We hope our friends will have the same patience with us that we endeavor to maintain toward this binder, who is injuring a splendid business reputation by delays that seem as unnecessary as they are mysterious.

We can only say that we are sparing no efforts or pains to bring out these long-delayed volumes, and hope to announce them in our next issue.

THE CASE OF MRS. MAYBRICK.

The refusal of the English Home Secretary to liberate Mrs. Maybrick, on the personal request of the President of the United States, when made and sought as an act of international courtesy, is a remarkable affair. It is the first time such a refusal has been made when solicited by the government

Mr. Lincoln pardoned a British officer known to be guilty, on the suggestion of the British government, in his time. Mrs. Maybrick's, who is now generally believed in England, as well as here, to be innocent of the crime of poisoning her husband, of which she was convicted, is now in the tenth year of imprisonment.

It must have been a very strong influence that operated to induce the English Government to refuse this request of President McKinley. It was in many respects an unfortunate circumstance. There were many reasons why it would have been a most politic measure to have acceded to the request of the American President.

Mrs. Maybrick, if guilty, had then suffered an unusually long imprisonment. The universal opinion now, everywhere

entertained, that Mr. Maybrick did not die from arsenical poisoning, leaves her continued incarceration an irritating subject between the countries, where every consideration tends to the conviction that the most friendly relations between the two peoples should exist. Sir Matthew Ridley's recent statement in the English parliament, when interrogated upon this subject, shows that this official is under some peculiar restraint in his action in this matter, and would indicate that he would be glad to release her if it rested only in his personal wish.

Some very deadly hostilities against this unfortunate exist, which seems not only all powerful, but controlling on the Home Secretary.

It is known that the Lord High Chief Justice of England has recently written to the English Home Secretary, strongly urging the release of Mrs. Maybrick, and that this powerful appeal has been ignored and over-ridden.

It is a matter of great regret that this unpleasant refusal to extend, as an international courtesy, a compliance with the request of the American government should now remain a cause of irritation or unpleasant criticism.

The progress of events, the war with Spain commenced and ended since the English refusal, brings the two people of America and England nearer together than they have ever been in the past.

Mutual interests of enormous magnitude gravitate the Englishmen of thought nearer to the complete friendly alliance necessary for the protection of English interests on the Pacific Ocean.

A Home Secretary of larger and broader views would have seized the present occasion to have liberated Mrs. Maybrick, as an affimative act of international courtesy and policy.

The public mind in England is quite ripe for such a movement. No act of the present ministry would be more agreeable to the public sentiment of Englishmen, who would welcome anything tending to cement the friendship of the two nations.

How this opportunity has been allowed to pass by Sir. Matthew Ridley and his confreres, without availing themselves of it, is incomprehensible. No act of Sir Matthew's life would be as popular in Great Britain as this release, just now, of Mrs. Maybrick, who is now in the tenth year of her imprisonment, a period, which we think, has never been passed by a woman in an English prison before.

In the case of Dreyfus, the French government has liberated that unfortunate and given him a new trial, where his innocence is doubted by the French Minister.

In Mrs. Maybrick's case, where her innocence of the offence for which she was indicted and convicted is universally conceded, the officers of the crown, while they concede the great doubt, refuse liberation until it has become an international scandal, and over the personal request of the President of the United States, which would never have been asked if that officer had not been fully satisfied of her innocence.

The gravitation of English and American friendly feeling is progressing since the English refusal with gigantic strides. The feeling in America has been growing in favor of England enormously.

A better feeling is increasing. It would cost very little sacrifice to yield to the request of the American President; it would be hailed everywhere with approval by our people, and Sir Matthew Ridley would find himself receiving the plaudits of millions of Americans, who sympathize with this unfortunate American citizen, languishing in a British prison, under a conviction for a crime of which all the world regard her as innocent.

ERRATA.

In Dr. Fitch's paper, "Sanity, Insanity and Responsibility," published in our last issue and in Bulletin of the Congress, the following error occurred on page 39, 7th line:

The word "*impaired*" should read "*unimpaired.*" The error is quite apparent on reading the text, but too late to correct in press. We give this correction.

NECROLOGY.

DR. ADOLF GROTENFELT, Director in Chief of the Prison Administration of Finland, Court Councillor, and Corresponding Member of the Medico-Legal Society of New York.

DEAR SIR :—Not understanding English, I beg leave to use the German language, hoping that you will have no difficulty in the matter. I am in receipt of your letter of June 11. I send you herewith the desired photograph of the deceased Court Councillor and Director-in-Chief of the Prison Administration, Dr. (not Professor) Adolf Grotenfelt, a Corresponding Member of the Medico-Legal Society,—as per M.-L. J., Vol. XV., No. 1, p. 119. He was born May 7, 1828, studied law at the University of Helsingfors, was, from 1860 to 1867, secretary of that university, but was employed during these years by the government for preparing the work for a reform of the prison system. In 1867 he was appointed inspector of prisons, at interim, and when in 1881 a central administration was instituted, he was appointed chief director. In 1891 he was retired with a pension and died December 29th, 1892. He was a member of a small commission, consisting only of three members, which elaborated the fundamental draft for a complete criminal code for Finland. On the basis of this draft, after long deliberation, a new criminal code (of 1889) was adopted and introduced. As a member of nobility, he took part in the work of the Finland Assembly during the years 1863-4, 1867, 1872, 1882 and 1888. In 1877 he received the degree of Juris Honorarius by the University of Copenhagen. His principal lifework consisted in the thorough reformation of the Finland prison system according to modern principles, conducted in antiquated methods until 1860.

A foreign journal, the *Aftonbladet*, in Stockholm, Sweden, in speaking of his demise, said :

"Dr. Grotenfelt has rendered high services in the Finland prison reform, and his name is indissolubly connected with the prison reform begun in 1866, which was of such great advantage to Finland. Besides that he has taken active part in the work that affected the administration of prisons, and he was respected and beloved by all on account of his humane conduct."

With respect,

ARVID GROTENFELT,

Docent at the University of Helsingfors.

He was for many years a thoughtful student of Forensic Medicine and took an interest in the labors of the Medico-Legal Society, of which he has been for a long time Corresponding member.

JOURNALS AND BOOKS.

THE ATLAS OF LEGAL MEDICINE. By Dr. E. Von Hoffman, Professor of Legal Medicine, of Vienna. W. B. Sanderson, Philadelphia. 1898.

The excellent work of Prof. Von Hoffman is admirably presented to American students, by a translation made by Dr. Fred. Peterson, of New York, and A. O J. Kelly, of the University of Philadelphia.

The illustrations are superb, 56 of the plates being in color and 193 in black.

This Atlas is certainly the best contribution that has been made, of its kind, to the students of Forensic Medicine, and the exce lence of the illustrations make it exceedingly valuable to both the legal and medical professions. Medico-legal jurists will thank us for calling this work to their attention.

Professor Von Hoffman has won the thanks of the students of medical jurisprudence by the great merit of the work itself. He has every eason to be proud and pleased by the way it has been translated and published for American students of the science.

THE SUGGESTER AND THINKER. Robert Sheerin, M. D., Editor, Cleveland, Ohio.

The first number of this new monthly appeared in July, 1898. It has a fine portrait of Dr. C. O. Sahler, of the Kingston, N. Y., Sanitarium, and original papers by Dr Geo. C. Pitzer, of St. Louis; Prof. Thos. Bassett Keyes, of Chicago, and Dr. C. O. Sahler, of Kingston, N. Y., and the editorial column is thoughtful and instructive. It will prove a valuable addition to psychological study in the department of Hypnotism and Psychology.

THE JOURNAL OF THE MISSISSIPPI STATE MEDICAL ASSOCIATION. H. M. Folkes, M. D., Editor and Manager.

This is an interesting and valuable compilation, and contains original papers read before that Association, and Editorial memoranda.

ACCIDENT AND INJURY—THEIR RELATION TO DISEASES OF THE NERVOUS SYSTEM. By Pearce Bailey, A. M., M. D., of New York. D. Appleton & Co., N. Y. 1898.

The work is a valuable addition to the literature of Traumatic Neuroses and is well worth the careful study of lawyers and physicians who take an interest in the trial of damage and accident cases.

The volume is divided into four parts, after the consideration of the case; the patient, the accident, the predisposition to nervous disease and the extent of the actual injury:

I. Organic Effects of Injury to the Nervous System.
II. Functional Effects of Injury.
III. Malingering, which is one of the best chapters of the book, and
IV. Treatment of the Traumatic Neurosis.

The work is well worth a place in a lawyer's library, and Dr. Bailey has more than ordinary views and clearness on the legal as well as the medical issues in these cases.

THE MENTAL AFFECTIONS OF CHILDREN—IDIOCY, IMBECILITY AND INSANITY. By Dr. Wm. W. Ireland, M. D., of Edinburgh. American Edition. P. Blakiston, Son & Co. 1898.

Since Dr. Ireland gave his masterpiece, "Idiocy and Imbecility," to the profession, he has ranked high as an author on all diseases of the mind. His studies and his labors in the Scottish Institution for the Education of Imbecile Children, and in Miss Mary Murray's Institution for Girls at Preston, give him peculiar facilities and knowledge on the men-

tal diseases of childhood, such as few men in all the world have enjoyed.

The present volume is ambitious in its plan and its execution.

He treats the subject exhaustively. Of the twenty-two chapters of his work he devotes all but two or three to Idiocy—its classification, and in subdivisions the most complete in detail we have ever seen.

His chapter on "Cretinism" is one of the best in the work, and will be standard in the profession at an early day.

On insanity in children, of which little has been generally known, he writes with a great advantage, from his own experience.

We predict a fine sale of the work to the professions of law and medicine on this side of the Atlantic.

HOLSTEIN FRIESIAN HERD BOOK, VOL. XV. Frederick L. Houghton, Secretary and Editor. 1898. Transcript Publishing Co., Holyoke, Mass.

The volume contains the officers of the Association for 1897 and 1898, and the roll of members, by-laws, with transactions of the 12th annual meeting. It carries the registry of bulls from No. 22,587 to 23,559, and of cows from No. 40,517 to 43,164. It embraces also the advanced Registry, Vol. VII, from No. 109 to 111, and of cows from No. 1221 to 43,891.

TWENTY-THIRD YEAR BOOK, ELMIRA STATE REFORMATORY.

This book is an interesting statement of the work of this excellent institution for the year ending September 30, 1897. It is illustrated and has a portrait and sketch of the late Dr. W. C. Wey, who died last June. It is a compendium of the work of the Reformatory, which is one of the best institutions in the world of this character.

MAGAZINES.

THE CANADIAN JOURNAL OF MEDICINE AND SURGERY. Toronto, Ontario. Dr. Arthur Jukes Johnson, M. B., M. R. C. S., contributes an article to the July number on "Mental Capacity in Will Making," in which he cites and comments upon leading English and American cases, notably Banks v. Goodfellow, 59 B. 549, Penfold v. Crawford, C. P. 1843, and others in England, and Delafield v. Parish, in New York. The paper, while short, gives good suggestions to physicians as to their professional responsibility.

The August number contains an admirable report of the annual meeting of the International Association of Railway Surgeons, the best we have seen, and illustrated with cuts of the retiring and newly-elected Presidents and of places of interest in and about Nuskoka and of Old Point Comfort, Va.

AMERICAN JOURNAL OF SURGERY AND GYNACOLOGY. St. Louis, Mo. Emory Lamphear, M. D., Ph. D., LL. D., Editor.

This Journal is ably edited. We notice in the May number, 1898, a paper by Dr. T. J. Bennett, of Austin, Texas, who describes a case where he extracted the fœtus and placenta of a six months child, when large tumors and fibroids, seven or eight in number, were disclosed on opening the abdomen, because "*it was not possible that the radical operation could be deferred until the child could become viable.*"

The case is one of those which involve the right of physicians to destroy a six months child to save the life of the mother. I should be glad to hear what those physicians who deny this right would have advised Dr. Bennett, if they had been called in consultation.

Dr. Ferd C. Valentine, of New York, contributes to the same number an interesting study of residual gonorrhœa in women, based on cases from his practice, in which he summarizes his conclusions as follows:

1. Like a man, a woman can have residual gonorrhœa without any external manifestations.
2. A woman with residual gonorrhœa is more likely to infect a man with whom she cohabits during the hyperæmia immediately preceding, or still remaining after menstruation.
3. The likelihood of infection is probably greater, if the coitus produces an orgasm in the woman.
4. A sub-mucous intra-uterine habitat of gonococci can be reached only by thorough curettage.
5. No woman should be pronounced cured of gonorrhœa until the scrapings from the cervix and uterine lining are proven to be free from gonococci.

BOOKS, JOURNALS AND PAMPHLETS RECEIVED.

MOSES J. WHITE, M. D., Wauwalosa, Wis., Superintendent Milwaukee Hospital for Insane. "The importance of Early Treatment in Insanity." 1898.

LEWIS H. ADLER, JR., M. D. "Physical Exploration of the Rectum." 1898.

FERD C. VALENTINE, M. D. "Chronic Urethritis." 1898.

PROF. U. O. B. WINGATE, M. D., M. M. S. S. "The Etiology, Prevalence and Treatment of Hysteria." 1898.

GRANVILLE P. CONN, M. D. "The Medico-Legal Significance of the Physical and Mental Examinations of Railway Employees." 1888.

"Report of Committee on Car Sanitation to American Public Health Association." 1898.

ISAAC N. QUIMBY, M. D., Jersey City, N. J. "Alcohol in Modern Medicine; or, Its Present Position as a Remedial Agent in Therapeutics." 1897.

LEARTUS CONNOR, A. M., M. D., Detroit, Mich. "The Prevention of Diseases now Preying Upon the Medical Profession." 1898.

J. B. RANSOM M. D., Physician to New York Clinton State Prison. "The State and the Criminal." 1895.

"The Physician and the Criminal." 1896.

"Shall Insane Criminals be Imprisoned or Put to Death." 1895.

PROF. CHAS. H. HUGHES, M. D., Mg. and Surgeon 1st Infantry, M. S. M. Volunteers. "The Sanitary Salvage of our Soldiers in Cuba." 1898.

"Medical Service and Medical Fees." 1898.

"Progress in Neurology." 1898.

WM. H. CORBIN, ESQ., Sorsy and Sage, Newark, N. J. "Corporations of New Jersey. Revision of 1896." 1897.

J. MOUNT BLEYER, M. D, F R. A. M. S., LL. D. "Fluoroscopic Diagnosis of Certain Forms of Lung, Throat and Heart Diseases." 1897.

H. G. Walken, M. D., Detroit, Mich. "Specimens in Abdominal Surgery." 1898.

J. N. HALL, M. D., Denver, Col. "Displacement of the Heart in Lung Diseases." 1898.

W. H. S. MONCK, M. A., F. R. A. S. "The Brilliancy and Spectra of Binary Stars."

WALTER WYMAN, M. D. "National Control of Leprosy." 1894.

J. SANDERSON CHINETSON, M. D., Chicago. "Did He Sham on the Gallows?" A review of the Windrath case.

LEARTUS CONNER, A. M.. M. D. "Diseases of Lachrymal Passages—Their Causes and Treatment." 1898.

Dr. ISADORE DYER, M. D., New Orleans, La. "Antivenene in Treatment of Leprosy." 1897.

"Leprosy." 1897.

"Report on Leper Home, Louisiana." 1896.

"Case of Hypertrophie Rosacea Cured with Thyroid Extract." 1897.

GRANVILLE P. CONN, M. D., Concord, N. H. "Passenger Car Ventilation," 1898.

A. J. EDDY, ESQ., Chicago, Ill. Proceedings Illinois State Bar Association, of 1898.

"What Reforms in the Matter of Expert Testimony are Advisable." 1898.

CHARLES DENISON, A. M., M. D., Denver, Col. "The Advantage of a Physical Education as a Preventive of Disease."

I. T. SEARCEY, M. D., Tuscaloosa, Ala. "How Education Fails." 1898.

DR. WM. V. MORGAN, Indianapolis, Ind. "Surgical Conditions in Inguinal Region."

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1898.

The following are the EXCHANGE JOURNALS

Archives Italian,
Archivio Giuridico,
Archives d'Anthropologie Criminalle,
Alienist and Neurologist,
American Journal of Insanity,
American Law Register,
Archives of Pediatrics,
Archives de la Psychiatie Clinique et Legale et de Neurologie,
Academie de Medicine de Paris,
American Journal of Psychology,
American Chemical Journal,
American Law Review,
Atlanta Medical and Surgical,
Asylum Journal,
Annales Medico-Psychologique,
Archivio di Psi Sci pen et antro crim.,
Archievs de Neurologie,
Annales Societe Medico-Legal, ed Belge,
Analectic,
Archivia par la Malatta Narvosa,
Albany Law Journal,
American Microscopical Journal,
Ala. Med. and Surg. Age,
Amer. Med. Review.
Annals Univ. Med. Science,
American Angler,
American Academy of Pol. and Soc. Science,
Aerzliche Sachverstandingen-Zeitung,
American Homes,
American Medical Journalist,
Atlantic Med. Weekly,
Amer. Monthly Retrospect,
Amer. Journal of Med. Science,
Applied Microscopy,
Amer. Med. Journalist.
American Economist.
Atlantic Medical Weekly.

Buffalo Medical Journal,
British Medical,
Boston Medical and Surgical Journal,
Bachelor of Arts,
Bulletin Societie de Medicine Mentale Belgique,
Barrister,
Book News,

"Cronica Medica Quirugica,"
Canadian Practitioner,
Central Law Journal,
Cent. Reporter,
Chicago Med. Times,
Church Union,
Col. and Clin. Record,
Connecticut State Board of Health,
Courier of Medicine,
Centralblatt fur Nerv.,
Canadian Law Times,
Charlotte Med. Journal,
Columbia Law Times,
Corning Journal,
Cape Law Journal,
Chicago Law Journal,
Criminal Law Magazine,
Chicago Legal News,
Columbus Med. Journal,
Current Literature,
Canadian Journal Med. Surgery,
Cleveland Journal of Medicine,
Chicago Clinic,

Der Irrenfreund,
Der Gerichtssaal,
Del Kongelige Sundhedskollegiums,
Dramatic News,
Davenport Acad. of Nat. Science,
Detroit Legal News,
Dietetic and Hygiene Gazette,

English Lunacy Commis.,
English Illustrated Magazine,

Frank Leslie's Monthly,
Friedrich's Blatter,
Fordhand Svensta Lakare Sallskapts,
Fort Wayne Med. Jour.,
Fishing Gazette,

Guy's Hospital Reports,
Gazette del Tribunal,
Giornale di Neuropatalogia,
Gaceta del Hopital Militar,
Gerichtl Zeitung, Vienna,
Gazette des Hopitaux,

Hygienic Soc. of Athens, Greece,
Hygiea,
Harvard Law Review,
Holstein Friestin Register,
Hot Springs Med. Journal,

Irish Law Times,
Illinois State Board of Health,
Iowa State Med Reporter,
Inter Collegiate Law Journal,
International Journal of Surgery,
International Journal of Ethics,
Index Medicus,
Iowa Law Bulletin,
Il Pisania Gazetta Secula,
Indiana Law Journal,
Intelligence.

Johns Hopkins University,
Journal of Inebriety,
Journal of Medical Sci.,
Journal of Nervous and Mental Diseases,
Journal of Med. and Sci.,
Journal of Jurisprudence,
Journal de Medicine,
Jahrbucher fur Psychiatrie,
Journal of Med. Science,
Journal of Electro Therapeutics,

Kansas City Med. Index,

La. Psi. la Neurol e Sci.,
Lippincott's Magazine,
L'Authropologie,
London Lancet,
Littell's Living Age,
Law Quarterly Review,
Le Progress Medicale,
Louisville Medical News,
Lunacy and Charity,
Literary Digest,
Law Book News,
Legal Intelligencer,
Law Students' Helper,
Lancet Pub. Co.,
Law Students Journal

Mass. State Board of Health,
Medico-Legal Society of Massachusetts,
Medical Review of Reviews,

Medical Annales,
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Mich. Law Journal,
Minn. Law Journal,
Medical Fortnightly,
Medical Mirror,
Montreal Legal News,
Metaphysical Magazine,
Modattscarfft fur Unfallheilkunde,
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AUTO-HYPNOTISM.

SELF SUGGESTION AND FIXED IDEAS.

BY CARL SEXTUS, FELLOW OF THE MEDICO-LEGAL SOCIETY.

(Continued from June Number, 1898.)

Whence did we come? Whence came matter? Whence came life? It does not solve the problem to say that mind, matter and life came from God. It only pushes the difficulty one step further back. It does not remove it, for at once it is asked, Whence came God? When it was believed the earth was flat and rested on a tortoise, the question arose on what did the tortoise rest. And when it was replied, on an elephant, that reply did not settle the matter.

There are few subjects that exercise the mind of the planter more than that of preparing the tree after it is taken from the nursery. The matter of how to prune is the one stumbling block of almost all amateurs and also many professionals, the fear of cutting off too much being the cause of error more often than a too free use of the knife. It is easy to realize that the plant's energies had better by far be underestimated than that it should be set out with the certainty of a severe struggle before it. The act of transplanting must of necessity cause a shock to a tree, and intelligent pruning is directed towards enabling the tree to take hold of its new abode before it has to enter into the business of its life—fruit production.

Whoever proclaims the unabated strength of faith, hope and love, notwithstanding life's failures, owes it to his fellow-man, for the betterment of the race, to disclose the source of his vigor and courage, and to demonstrate in his life that his assertions are absolutely true.

The one great law of the Universe is order—systematic arrangement of forces to bring about definite results. This law holds sway in every relation of life, every avenue of activity, every line of thought and research that man enters into. Each requires not only the vigorous operation of brain, muscle and financial support, but a systematic, well-defined mode of procedure, that there may be positive progress and success.

A certain incident connected with the great Napoleon, while he was in exile in Elba, is commemorated in the island to this hour by an inscription affixed to the wall of a peasant's house.

A man named Glaconi was plowing when the famous exile came along one day and expressed an interest in his work. Napoleon even took the plowshare out of the man's hand and attempted to guide it himself. But the oxen refused to obey him, overturned the plow and spoiled the furrow.

The inscription runs thus :

"Napoleon the Great, passing by this place in MDCCCXIV, took in the neighboring field a plowshare from the hands of a peasant and himself tried to plow, but the oxen, rebellious to those hands which yet had guided Europe, headlong fled from the furrow."

Among the hills of old Berkshire is a noble birch tree, gigantic in trunk and limb and abundant in foliage, which towers above its neighboring companions, but grows, apparently, out of an immense granite boulder. Here, one might think, it would have paused, submitting to the adamantine pressure, either crushed utterly to the earth or dwarfed and deformed by its unyielding environment. But it had the irresistible evolutionary forces of nature behind it. The sunlight above wooed it from its prison house; it pushed upward toward the light. Gradually the little crevice in the rock was widened, the great boulder was split asunder as by the hammer of Thor—the noble tree was scarcely distorted by the struggle, protected from destructive storms by its conquered enemy.

Thus it is with great movements among mankind. Their beginnings are always small. With a company of fugitive slaves, stealing out of Egypt by night, there did not seem to be any promise of what afterward became the Hebrew nation.

That which the world regards as of the least consequence, is the cause of all the disasters that overwhelm with woe and ruin. The little frets and worries, the fits of anger, jealous, envious and revengeful feelings, all go—like the flakes of snow that form the avalanche—to make the visible and culminating miseries and woes of human beings. Atom by atom, growth is evolved. What we need to do for the building of permanent happiness, is to control the mind, and see that these destructive, sorrow-breeding thoughts do not possess it.

A genius is always a sensitive, but a sensitive is not always a genius, though having the fundamentals for becoming such. A genius is sensitiveness cultivated. A crank is the same gone to seed—often an effort of environment or lack of appreciation.

Disheartened genius has nothing further to offer than blind servitude. Originality is killed in the fall.

To do, increases the capacity of doing; and it is far less difficult for a man who is in an habitual course of exertion to exert himself a little more for an extra purpose than for the man who does little or nothing to put himself into motion for the same end. This is owing to a principle of our moral nature, which is called the *vis inertiæ*—literally, the strength of inactivity. To set a common child's hoop rolling requires a smarter stroke at starting than to keep it in motion afterward. There is a reluctance in all things to be set moving; but, when all that is over, everything proceeds smoothly enough. Just so it is with the idle man. In losing the habit, he loses the power of doing; but a man who is busy about some regular employment for a proper length of time every day, can very easily do something else during the remaining hours; indeed, the recreation of the weary man is apt to be busier than the perpetual leisure of the idle man. When people say the will is weak, they really mean the reason—the will of the intelligent or spiritual part of man. Will power is to intelligence, what the negative is to the positive in electricity. It is the animal or material force in life, and is an outcome of emotion, while the former is an outcome of the senses. That is, individualized consciousness.

The universal is spirit, and passes through matter as sensation and emotion, and evolves its similitude in miniature—man. What the original is no finite being can know. We can only judge of its nature by the effects in man. What we know as will is probably force or law in nature. What we know as consciousness or reason—omniscience. What we know as love, is likely a third principle—probably the highest of the three, for, it is said, that God is love and love is God. But to understand nature, man must study self, he being a microcosm of the whole. The nerve system is the fibre system of individual centers. The nerves serve as an insulation for soul or vital substance. On these fibres intelligence flashes to and fro. Often the brain of man has reminded me of a union telegraphic station. Messages come and go over all these fibres which are well-defined lines for such operations. Some of these messages make their indentations and are returned and used; others are lost in the effort of registration. In this way thoughts go out and touch other mind centers, thus there is constant exchange of thought and each one's stock and store is enhanced.

A Swedish Legend.

Zulamith and Salami had lived and loved on earth. Death severed them, and they were doomed to dwell, he on one star, and she on another. Between them was an unsounded abyss of suns. Impelled by love, Zulamith began one night to build a bridge of light that would span the abyss to Salami, and Salami, the same night, began a bridge that would arch the abyss to Zulamith. A thousand years they toiled, and when their toil was done, from wedded strands of light they leaped, each into the other's arms. The cherubim pointing to the milky way, cried out, "O Lord, see thou what Salami and Zulamith have done!" And God smiled, and a glory flushed the heaven, and God said, "What in my world true love has wrought, that will I not undo."

Do I believe it? Yes, profoundly, as the vestment of a spiritual truth. The Swedish heart spoke for the heart universal. It voiced the great hope of man, that souls which fall apart through night, or storm, or rue, or death, may meet and bloom again, and bloom forever. It voiced the heart's deep threnody that immortal love, to find its own, will braid the abysses, and bridge the stars with strands of light and love.

James Russell Lowell says:

The only conclusive evidence of a man's sincerity is that he gives himself for a principle. Words, money, all things else, are comparatively easy to give away, but when a man makes a gift of his daily life and practice, it is plain that the truth, whatever it may be, has possessed him."

Let us apply this axiom to ourselves. How many of us are dedicating our life and energies to the cause we profess to love? How do we prove our sincerity ?

History has a strange way of repeating itself in human actions. The trial of Zola, in Paris, for openly declaring the innocence of Captain Dreyfus, recalls a similar part played by Voltaire more than one hundred years ago, when he defended the honor of another French soldier, Count Lally. Lally had failed to save India from the English, had been taken prisoner and had, with true magnanimity, begged his captors to allow him to go to Paris to answer the charges that had been made against him.

His request having been granted, he voluntarily placed himself on trial. But, his countrymen, infuriated at the loss of their possessions in India and Canada, were in no mood to treat him with impartiality, and after proceedings which were tainted with flagrant illegality, Lally was condemned to death by the parliament of Paris, on the vague charge of abuse of authority, exaction and extortion. Voltaire, who was always ready to espouse the cause of the victims of injustice and oppression, helped the murdered man's son, known in the days of the revolution as Lally Tollendal, to clear his father's name.

With unrelenting perseverance he went to work to procure a revision of the proceedings of Count Lally's trial, and one of the crowning triumphs of his life was the news, brought to him on his death-bed, that his untiring efforts in the cause of justice had been crowned with success.

Strangely enough, Voltaire also exerted himself in trying to save a man condemned by our own government at the time. The execution of Admiral Byng was a parallel in the history of England to the death of Lally in French history. Voltaire, who had known Byng when in England, did his utmost to save

the unfortunate admiral. He obtained from Richelieu, who had been Byng's opponent at Minorca, a letter setting forth the former's conviction of his defeated enemy's courage and good seamanship. This document Voltaire forwarded to England, and, though it was not entirely successful, he afterward claimed that it turned four votes at the court-martial.

The discipline and spiritual development we need come far from effectively, as well as more rationally, with a continuous individuality and personal life, in this and in all worlds. Religion interpreted by orthodox creeds, has turned this world into a battle-field. But religion, interpreted by the light of reason, or the unfoldment of the moral and spiritual faculties of the human mind, is "the coming religion" of the new dispensation.

Pretty justice was that wherein seventy thousand Israelites were slain for the sin of their king, if it were a sin to perpetrate the enormously heinous offense of numbering his subjects, a practice which is followed by all civilized nations of modern times.

The laziest and dirtiest people in the world have recently been discovered in the Caucasus. They live in an inaccessible mountain range between the Black sea and the Caspian sea, and as they were 2,500 years ago, so they are to-day. Seen from without there is a certain picturesqueness about a Svanctian village, although it merely consists of miserable stone hovels without any attempt at form or adornment. Within the houses are inconceivably filthy. They are filled with rags, vermin and dirt of every description. They possess no fireplace or chimney. All the cooking, in fact, is done over a hole scooped out in the middle of the floor. In these houses men and women and children are huddled together; during the long winter months they are shut in for days at a time, the cattle often sharing their quarters. Every aperture has to be closed on account of the cold. This long imprisonment is, perhaps, the cause of the degradation of the people. Horrible diseases result from it, which are aggravated by abnormal con-

sumption of arrack, the strong distilled drink of the Asiatics.

Besides this, it is an invariable rule to make four days a week holidays, with saints' days as extras. Since they have adopted the holidays of every other country with which they have been in contact, it is not surprising that the men find little time for work. Farming, bee culture and cattle breeding are the only industries of these people, while throughout their territory there is not a single manufactured article. By the light of history and observation, society has proved that certain actions are opposed to human welfare, and have consequently been branded as crimes, and written down in all the sacred books as transgressions of divine law. Such actions when condemned by the general moral judgment of humanity are virtually condemned by divine authority, for there is verily a profound religious truth underlying the political maxim, that "The voice of the people is the voice of God." Theistic science justly claims that man's physical anatomy to-day has assumed the form it was originally designed to have, and we may as scientifically claim that his moral organism has also been developed according to a definite moral purpose, and that his moral judgments when expressed through his normal intellect and intuitions must accord with the divine idea of morality. As the abnormal human monstrosities in museums do not represent the true natural physical anatomy of man, so neither do the mental and moral abortions in prisons, asylums and cloisters, truly represent man's natural moral image. God's ideal physical form is to be found in the average form of humanity; so also is the divine will to be found in the general verdict of mankind. The summers come and go, winter hangs its frosted curtains about us, decades after decades elapse, ages pass into eternity, and the imagined measure of time loses itself amid the turmoil of the centuries. Man appears upon the stage of life, his voice is heard for a time, the nations applaud him to the skies, then he hurries on and is swept into eternity, and in time, the very memory of his name is lost forever. Amid all the din and roar of beginning and end, intellect smiting intellect, future and

past, vanity and hope, there seems to be but one thing that man can vouch for, and give his testimony upon as truth, the whole truth and nothing but the truth, and that is, that he can say, and know, "*I am.*" Deceive not yourself by expecting to be treated as you have treated others. If you have been charitable, or have assisted others, do not expect that you will receive a proportionate return of kindness. The reward for such assistance is the pleasure and gratification to yourself, of knowing that you have been the means of relieving the wants or alleviating the sufferings of others. This is the only reward that any one can expect, and gives more satisfaction in the long run than any other.

Selfishness and irritability are negative or animal emotions, and generally accompany each other. Love and self-poise are positive or spiritual emotions, and, like the former, are boon companions.

The reason-principle may be compared to a diamond of the first water, a star of the first magnitude, set in the human intellect to give lustre and utility to the other gems therein. Without it man stands little superior to the animal creation; with it he stands the crowning apex of creation, in the image of the Infinite, the noblest manifestation of God on earth. And yet, how terribly fettered do we find this supreme civilization and religious liberty.

Ignorance and stupidity constitute the two-edged sword that flames across the path of man's progress. Shakespeare said: "There is no darkness but ignorance."

Modern Science.

An interesting method of measuring the diameter of the earth was lately described by Professor Porter, of the London Physical Society. It consists in observing the shadow cast by the Peak of Teneriffe upon the sea, and measuring the time that elapses between the moment when the apex of the shadow touches the sea horizon, and the instant when it is eclipsed by the shadow of night. A phenomenon hitherto unnoticed is the shadow cast by the heated air rising from the peak, giving a faint oblique prolongation of the shadow of the apex.

The idea that dew falls as rain falls was generally entertained until exploded by Dr. William C. Wells. It is a vulgar error which it seems impossible to eradicate. A thorough explanation of it will be found in Mill's Logic, book 3, chapter 3, section 3.

According to this theory, dew does not rise or fall, but is formed in direct contact with the object upon which it appears. It is the humidity of the atmosphere, deposited on the cool surface of bodies which have lost heat by radiation to the clear sky, and have fallen in temperature below the point of saturation of the adjacent air. Bodies which are good radiators and lose their heat to the sky, and which are also poor conductors, and receive little heat from the earth or other bodies, examples of which are grass, leaves of trees, glass, stones, etc., are most favorable to the deposition of dew. The moisture which collects upon the surface of the pitcher of ice water on a warm day is an example of the deposition of dew. If we study only the things that we can see with our physical eyes, and handle with our physical hands, we leave a world of knowledge all unheeded; for invisible things are as numerous as visible things, and the field of being occupied by the invisible is as extensive as that occupied by the visible. Electricity is invisible, and we know of its existence only by its effects. We know that electricity is everywhere, for everywhere its effects are to be seen and felt. The ether, or the realm of atoms uncombined, or whatever name we may give it, is a grand reality, though we cannot discern it with these eyes, or so feel it as to comprehend that we feel it with these nerves. We know that the ether, or sea of atoms uncombined, is a reality occupying all interstellar spaces, and that the ponderous masses called by suns and planets, nebulæ and comets, all are but motes, so to speak, that float incessantly in this infinite ocean of ceaselessly vibrating atoms. How know we this? We know this by the fact that light is conveyed across the vast spaces that separate us suns, planets and systems from one another; for nothing can pass through any space without a medium through which to

move. To move through a space where nothing existed, could we conceive such a thing, would be equivalent to making something out of nothing, which is utterly unthinkable. Nothing can go where nothing is, any more than nothing can come from non-existence. Therefore, we know that the infinite ocean of ether exists, though itself invisible to our physical sense, while at the same time it conveys the element of visibility through all space. We know, too, that life exists, and that we are alive, though we have never seen the life itself, but only its effects. We also know that mind exists, though no one has ever seen, or ever can see, the mind itself. Mind is invisible to the physical eye, though the fact of its existence is beyond all cavil or question. Without mind nothing could be known to exist. Without mind nothing whatever could be known; mind alone perceives existence as a fact; mind alone takes note of things as existing; mind alone knows its own existence as a reality.

But who ever saw a mind? No one. We see, all the while, the effects of mind, but we never see either our own mind, which we know as an existing fact, or any body else's mind, which we also know, by its effects, as a real existence. Sometimes men thoughtlessly say, there is no God, because neither themselves nor any body else ever saw a God, or heard one, or felt one by the sense of touch. Might they not as well say, there is no mind, for the same reasons? Might they not as well say the same of electricity and ether and everything invisible and intangible to physical sense? But they own the existence of mind in man, by the effects of mind in man. Ought they not, then, to own the existence of mind in the universe throughout by the effects of mind everywhere discernible throughout the universe? For, what is it that effects our minds as cause with regard to anything observed but the indication of mind that appears in the thing observed? Our mind can conceive of nothing that exists objectively except as a manifestation of mind existing as the cause of that objective existence. Every object of which we have any knowledge,

when studied to the last point of analysis of which we are capable, speaks to our mind as having its ultimate cause in mind. Therefore we have to believe in the universal and eternal mind of being itself. In other words, we have to believe in God; and in conformity with this proposition all men in all ages are believers in God, whenever and wherever they candidly study things as to their ultimates. The cognizing of things impalpable to the touch, invisible to the eye, soundless and without odor, the perception and delineations of conditions and events belonging to the far distant past, and the recalling of conversations held in a former generation, would 50 years ago have been looked upon as mythical and repugnant to common sense. But sense is not so common as it used to be, our senses are widening in their scope and activity. The "inner sense" is supplementing the outer ones, and bringing into our cognition a field that was before unrecognized and undreamt of, save by the enlightened seer who realized but knew not how to convey to the materialistic perceptions of man his idea. Buchanan's discovery of psychometry, or cognizing and measuring things by their spiritual qualities, and Denton's application of it to geology and archæology, have demonstrated the fact that the visible is duplicated in the invisible, that all events are indelibly recorded, and that "thoughts are things." The universe is like one vast instrument with innumerable octaves and tones, and every definite thought evolved is in harmony with one of its strings. When we look into the heavens, and see the stars set in their order; when we behold the planetary worlds, and observe the order in which they perform their axial and orbital motions, some of them attended by their moons, as lanterns to guide them in their trackless way, ever revolving around them like faithful attendants; and the comets, strange wanderers through the azure, as they move in regular order to and from the sun, and the sun itself, king of day, rising in the east, mounting to the zenith and retiring in the west until the horizon shuts its eye upon it; the moon, fair queen of night, wad-

ing through starlight and blue, in an ecstacy we are led to exclaim, Order permeates them all.

There is a greater world unseen than the world seen, and this world unseen we know by its phenomena.

There is a habit of looking at the bright side of things, and also of looking at the dark side. We possess the power to a great extent, of so exercising the will as to direct the thoughts upon objects calculated to yield happiness and improvement rather than their opposites. In this way the habit of happy thoughts may be made to spring up like any other habit. And to bring up men or women with a genial nature of this sort, a good temper, and a happy frame of mind, is perhaps of more importance, in many cases, than to perfect them in much knowledge and many accomplishments.

It will be seen, of course, that the more the individual and particular tends to enlarge towards the universal and general, the more does it tend to include, and be included in, its like—the greater is the reciprocity between the parts of the whole.

The moral law is a generalized expression for the sum total of actions conducive to our well-being. It has been said that there are few things that cost less than kind words, and few that are more valuable. May we learn this great lesson now. In reply to the request for assistance, the professor said: "If I could help you, I could not help helping you. It is because I cannot help you that I cannot help refusing you." The mendicant darted around the corner with terror in his eyes and cries of "Help!" in his mouth.

DISCRIMINATIONS AND COMPENSATIONS AS TO THE MEDICAL CONDUCT OF THE RECENT WAR.

BY GEO. W. GROVER, M. D., SHEFFIELD, MASS.

One of the best known novelists of England, of the last generation, won no small part of his reputation on his famous work, "Put Yourself in His Place," but a man needs a sky rocket imagination to do that; and nearly as difficult is it to put yourself in your own place, as both the place and yourself existed many years ago. This feat requires a gilt-edged memory, and that is not much more common than the imperial faculty which, according to the great Corsican, ruled the world.

The present always has this advantage over the past, that the nerves that tingled with pain in the yesterday, somehow or other become tinged with a sort of melancholy pleasure as they pass down along the horizon of distance. Has it ever been your experience to listen to a chronic dipsomaniac recount his recollections of past jags, half remembered debauches; the time when each separate hair on his head became endowed with sensitive nerve cells; the horrors that he ran up against, sources of pain and suffering as they were, yet smile at him half kindly as they look at him from the lumber room of Memory, and make him half believe that, after all, the devil, that particular devil anyhow, is never so black as he is painted? And so proportion, discrimination, is always a difficult

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thing, and we are forever over-coloring or under-tinting all our life's experience.

Read the papers, listen to the accounts of things done, or left undone to-day, and we would think, often, that no such experiences were encountered before—the heroism, bravery, success and self-sacrifices of to-day out-class all such life experiences of the past.

This thought it was, that as I kept pace, or tried to do so, with the shifting kaleidoscopic view of the events of this passing Summer, this swiftly won campaign, as presented to us by the facile pen, the "Special Correspondent," or the moving, thrilling tale of the boys in blue. It was this that sent me back, first to my own remembrance of the events of the days of '61 to '65, and then to a search of the files of the newspapers, to see if we really had events such as these, ever lived through such soul-stirring scenes before.

Well, as I hunted along the columns of the journals of '61 and '62, I ran across the sharp discussion between the late Dr. Henry J. Bowditch, of Boston, on the one hand, and the late Hon. Henry Wilson, the junior senator from Massachusetts, on the other. "Have we an ambulance system?" Dr. Bowditch contending that what we had was a disgrace to the army, Senator Wilson arguing that no other army was ever equipped so well. Change the dates round some, turn the sixes wrong side up, and you would think you were reading over the arguments we have met during the past few months. That was late in '61. As you go on to '62 and '63, and read of Shiloh, Fredericksburg and Gettysburg, men lying six days wounded on the field, no food, no water, no care, the story running parallel with so much that has grown familiar during these last full freighted weeks, and has left us bewildered, sad, dazed, indignant as the stories have come before us.

Thus, as we take up the line of this inquiry to-night, a subject, by the by, that it is all important should be taken up, aad considered by such a body as this, it behooves us to try and get started right if we can. How then does the the question lie? What is its scope and range? Here is our first line of discrimination.

The question is not, that is, the question before us is not, was it well that war should have been declared at this time, and in the way it was? That is another inquiry altogether, but, having been declared, being here, as a problem to be solved, what has been the character of the campaign so far as one department is concerned; has the medical department of the United States Army, all things considered, been such as should receive praise or blame? And with the question standing thus, I most sincerely regret that the answer to it could not have been given by one who could speak from his own personal experience in the field, as to what he saw himself, as to what passed before his own eyes. This was what I wish could have been done, and then I could have followed, as I had intended to do, and placed my few words as a supplement to his positive utterances.

But, rather than have such question not come before us at all, I will make an attempt to state some things I have seen myself, others that I have been told by eye witnesses, and some few facts that are the deductions of common sense, trusting that my words may call out others that shall be far more valuable.

1st. We may assume, may we not, as a starting point, without fear of dispute or denial, no one doubts or questions that it has been the purpose of the medical department to do *what it could*, and *all* it could, for the welfare and comfort of each and every soldier under its charge. My personal acquaintance with General Sternberg has been of

the slightest, but I have been in correspondence with him all Summer. He graduated at my old *alma mater*, the College of Physicians and Surgeons, of this city, a year or more before I entered. I have heard his classmates speak of him, have listened to his estimate by those who know him well. Surely he has borne a vast load of care and responsibility, and should be given all the support that can be given him.

ILLUSTRATION 1. Could we know the truth I do not doubt that all who have carried the responsibility of all this, during this hot, fearful summer, will never be again the men they were.

One day during that fearful season of 1893, our armies defeated, all going apparently to ruin, a most unique figure appeared at the door of the White House, and insisted on seeing the President. "You can not enter," said the sentinel in charge. "But I *must*." said the caller. "You can't, I tell you. Who are you, anyway" "I am David Ripley, of Newark, New Jersey. I hate rum, slavery and the devil. See him I must." Just then Hon. Henry Wilson, of Massachusets, who knew Mr. Ripley well, came along. Mr. W. whispered to the sentinel, called the President, and soon the long figure of Lincoln, clad in a linen duster, came flying down the stairs, the face sad and troubled, the eyes heavy and full of suffering.

"Mr. President, I have heard that you are troubled of late, but I have to tell you that I am praying for you." The face of the President lighted up. "So long as you, Mr. Ripley, and others are on your knees before the God of Battles, I never will despair."

2d. What problem was it that confronted General Sternberg and the medical department last May, and how was that problem shaped and colored by the temperament and character of the American people? Don't forget the latter

part of this sentence, please, for it goes a long way toward answering this question. We are a nation of the quickest perceptions, the most resistless energy, and the greatest tendency to forgetfulness of any civilized people, unless it be our sister republic across the water. England is not so quick to learn her lesson, but once having it learned, the grey matter in the brain of the British Lion is of tougher fibre, and tucks a thing away so that it stays *put.* Russia takes longer to get started on the road to improvement, but when once going she keeps on till she reaches the end of *that* road of possibility. While Germany tucks away everything she ever learned in some safe cranny where she can find it when she needs it most—illus. Moltke and the Franco-Prussian War.

ILLUSTRATION 2. When Moltze was told by Bismark that war was declared, he took down from various pigeon holes orders that he had been planning for sixteen years All was arranged years ahead.

Now, then, what nation, having reached the goal of perfection we reached in 1865, along every line of military development, would in one generation only have suffered so much of it to slip from her grasp. To be sure, England had a similar experience after Wellington whipped Napoleon in 1815. The lion went to sleep, and only waked up as the bugle call of the Crimean War threatened to burst his tympanum, and then was so sleepy that it took him two years to rub his eyes, and in the meantime the Crimean scandal nearly blew up the War Office, till Florence Nightingale quenched the volcano of a people's anger with the heavenly dew of her pity, her ministry and her tears, but the British War Office will never be caught in such a predicament again. If wars and rumors of wars are, as God grant they may be, centuries apart, her navies may face nothing more severe than the storms and the waves;

but the fires under the boilers of her war ships will be always burning, so that when the cyclone strikes, her gunboat shall fly, like a stormy petrel, out to ocean's wide expanse, when others, less ready, go down in foreign waters, as they grind on the cruel rocks. The advantages of the *preventible* are *never forgotten.* God in his mercy grant they may never be forgotten again by us.

To expand, equip, enlarge a small army and all its essentials, in each and every demand of service, to do it *at once*, not gradually as we did in the '60s, but in weeks, literally weeks, instead of years, do you know what that means, gentlemen? Go up and ask Depew, or the manager of some vast railroad line; go to Wanamaker, or some merchant king, tell him to increase his plant in *four* weeks, not years, not months, *weeks*, to *ten times* its present capacity. Ask him *seriously*, and see how quickly he would summon experts to take you to your place in the insane asylum. Now, make this discrimination, this not only was proposed, but *done*—had to be done. Is it a wonder that there should be some friction at first? Is it not rather a marvel that the whole machine should not have gone to smash.

3d. One other point where it is well to be cautious in crystallizing our opinions into judgments.

Did you ever read the Century History of the War, published more than a quarter of a century after strife had ceased, and yet while many of the actors in the mighty struggle were yet living, and gave their own testimony, a publication that strove to sift out the chaff of legend, and hold only the wheat of fact.

But, open these volumes. Beauregard says he fought Bull Run. Joe Johnson says Beauregard would not "have been in it" if he had not hastened to his aid.

Who won Shiloh? Buell says Grant slept ten miles

from the battle field; did not get there till his army was whipped once, but for him Grant would have been pushed to the river in another half hour.

Grant says he laid down under a tree in the rain, began the second day's fight early and under his own supervision.

You all remember the famous Gettysburg controversy. Longstreet and Lee, looking at similar circumstances with eyes that utterly failed to see alike, and so on, till you are so bewildered at length that you can hardly help wondering whether there is any such thing as history after all; whether the entire past is only a mirror, into which men look and see their own opinions looking back at them. Compare Hume, Froude and Macauley as to the merit of Stuart, Tudor or Plataganet. Why, according to late criticism, Richard III was a poor unfortunate, with a crooked back, but wonderful kind heart—murder children! Oh, no! he loved them so tenderly.

Hence. it does no harm to hold opinion in abeyance tentatively, till more complete materials are on hand to give evidence to finality.

The light of one's own experience is, now as ever, the most certain of all sources of evidence, thus; I take pleasure in stating my own, perchance at variance, gentlemen, with yours, but convincing as to myself, though its range was limited.

I sent a letter to the Surgeon General of the army, of which the following is a copy:

NEW YORK, October 4th, 1898.

TO THE MEDICAL DEPARTMENT UNITED STATES ARMY,
Washington, D. C.

GEO. M. STERNBERG, M. D., Surgeon General,

My Dear General: As I have noticed that it is the desire of the Committee of Investigation, recently appointed to consider the subject of the conduct of the war with Spain, that all facts bearing thereon shall be submitted to them for consideration and judgment, I therefore forward for such purpose the following:

1st. As it fell to my lot to have served in the Medical Department of

the Army in the late War of the Rebellion, during the year 1864, I therefore found my report on what my experience then taught me to consider as essential.

In the month of June, 1898, I enquired, by letter, of Dr. Geo. M. Sternberg, of the Army, and Dr. Wood, of the Navy, if such contributions as I might be desirous to make, of Londonderry Lithia Water, with the consent and approval of the Company that I represented, as Medical Superintendent, would be acceptable and receiving, in each and every instance, a reply of cordial assent and approbation, I visited during the past four months the Naval Hospitals, at the Navy Yard, Brooklyn, the hospital at Stapleton, the Long Island College Hospital, Brooklyn, the Mt. Sinai, Presbyterian, French Hospital, New York, and some others in this city, and, in the first week of September, the hospitals at Camp Wicoff, Montauk Point. In each of the hospitals mentioned, and others as well, I had interviews and conversations with the physicians of the medical staff, and in most instances, with the soldiers themselves and their friends, at each and all of the places enumerated.

2nd. It was my endeavor to observe the care, kindness and competency of the medical officers at all places visited, as evidenced by the character of the work under observation, together with all features neccessary to the well-being of such institutions, and the comfort of the patients under their care.

3rd. This statement covers as well the readiness of co-operation on the part of the department responsible for transportation of all medical supplies, represented in this city by Col. Brown.

4th. I would state that in all instances coming under my direct and personal observation, I always found perfect readiness of co-operation and keen desire to carry out any and every request that tended to prompt delivery and proper use. In no instance did I find, although I looked for it, negligence, indifference ar carelessness. All this is attested by my personal word of testimony, and letters received at various times from Gen. Sternberg, Dr. Heizman, Col. Brown, Dr. Norton and the medical staff of the various hospitals.

All this is stated as the result of my personal experience, and submitted for your consideration. GEO. W. GROVER, M. D.,
Graduate College Physicians and Surgeons, New York.

And, now, gentlemen, with but a final word I conclude.

What then is the conclusion of the whole matter? Solomon once asked that same question, but wise as he was, he didn't seem quite sure of what the conclusion was, and didn't know exactly if he liked it or not.

Well. perhaps we can not do any better, but "one or two precepts in thy memory."

Polonions was a fool, but he was very level headed here.

To incline to the brighter rather than the darker, so

long as the question is open, is always safe; to be *ready* to revise an opinion is alwas a sign of a true and noble man.

When anything is stated that flatly contradicts all your own experience, then it is safe to pause.

For instance, I have been connected with army life, in one capacity or another, either as surgeon or as chaplain, for a good many years. I know what military discipline is. I know all about that keen, sensitive *esprit du corps* that makes the soldier's code and statute book. I had a long time to learn it. Let me ask, gentlemen, those of you whose experience has been more extensive than my own, suppose in any regiment that you were ever connected with a surgeon should constantly neglect his men; suppose his brother officers knew—not guessed—knew him to be cruel, incompetent, ignorant, what would be the consequence? Would they stop, think you, to wire Washington? They might later, but what first? If my experience has taught me anything, it is that the officers and soldiers in that regiment would make that man feel that it was good for him that he had never been born. They would not break his head on a dark night, or shoot from behind a tree, but do you know what military ostracism is: this cold, freezing courtesy, that smiles and smiles, and freezes and freezes? Such would be that man's lot, if I mistake not.

Finally. What recompense is there in all this? You remember the old proverb as to the ill wind, etc. Well, war is a wind that we hope and pray may not blow often; but when it does, then one compensation is, that it takes not long to demonstrate that the stock, hero material, is always about the same in the world. We criticise, sometimes, the accounts of the appointment of "sons of somebody," and grow indignant, or think we do, as we read the list, but let those same "sons" go out yonder, and perish

mid the awful test of war, and our hearts glow within us, as we read of the poor, heroic Hamilton Fish, trying to pass, with moribund hand, the water to a comrade that he felt he would no longer need; of glorious Will. Tiffany, smiling to the last, and whispering, "I shall be better to-morrow."

Good bye, good bye, heroic souls. You have gone to the land, whether near or far, where taps are never sounded, or roll call incomplete.

And Astor, Kane, Ronald, side by side, with the heroes of the plains, and gaining their admiration by their sheer force of pluck.

The echoes of Sumter faded into forgetfulness say you. Yes, as to any issue that shall longer keep brethren apart; but when Fitz Lee and Miles ride side by side, and the stars in the national fimament shine brighter by this new baptism of danger and death, then, as North and South march shoulder to shoulder, with a united land watching their progress through the tear-mist of anxious solicitude, who shall say, who wishes to say, that our country has not entered the portals of a new career, the end thereof our vision doth not see, but whose sun of beneficence does not set.

MEDICO-LEGAL SURGERY.

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THE CONDUCT OF THE SANTIAGO CAMPAIGN FROM A MEDICAL STANDPOINT.

BY GEORGE GOODFELLOW, M. D., OF LOS ANGELES, CAL., FORMERLY MEMBER GEN. SHAFTER'S STAFF.

A vast amount of hostile criticism has been indulged in concerning the conduct of the medical department of the United States Army in the late war. I do not propose to enter into any discussion as to the merits or demerits of the surgeon general, or of his various subordinates in the different camps within the United States. All that I can speak of is that which has come under my own personal observation, in connection with the medical service in the 5th Corps, from Tampa to Santiago. That there was a great amount of illness in the army at Santiago is well known, as well as the fact that there were a considerable number of wounded, and so bitter had become the discussion sometime ago, owing to the hysterical attitude of the laity, that the medical profession became more or less imbued with the spirit of hysteria, and no less a person than Dr. N. Senn, of Chicago, made the hardy assertion, if correctly reported by the public press, that the outbreak of disease in the army in Cuba was due entirely to the commanding general of that army, and that assertion of Dr. Senn's has been the basis for continued aspersion, not only of the character and accomplishments of the general, but of the medical officers serving under him. From the time the organization of the army was undertaken at Tampa, to the return to Montauk Point, the solicitude of those in command for the welfare of the troops was constant. Every step which modern science could suggest, or skilled medical men could indicate, if practicable, was immediately adopted. Some idea of the minor details of the organization may be given. We will quote, first, a few of the orders and recommendations given and made in respect of the medical department during the time the troops were at Tampa:

HEADQUARTERS U. S. FORCES,
TAMPA, FLA., May 3, 1898.

"TO THE COMMANDING OFFICER,
Infantry Division, U. S. Forces,
Tampa, Fla.

Sir:—The Commanding General desires that a Division Field Hospital be established in your command, at Tampa Heights. The Chief Surgeon at these Headquarters has been directed to designate to you, from the Medical officers of your command, the Commanding Officer of the Hospital and his assistants.

Very respectfully,
(Signed) J. B. BABCOCK,
Assistant Adjutant General."

HEADQUARTERS 5TH ARMY CORPS,
TAMPA, FLA., May 19th, 1898.

"TO THE ADJUTANT GENERAL, U. S. ARMY,
Washington, D. C.

Sir:—I have to request that quite an addition be made to the medical officers of this command. I think there should be at least twelve, or enough so there shall be not less than two to each regiment, one to each battery, and a small surplus for hospital services. The health of this command is remarkable, there being less than two per cent. sick; if possible, I want to keep it so. To do this there should be plenty of medical officers; two doctors are on sick report, leaving their regiments without medical attendance. This appears to me be a matter of great importance, and I hope the medical officers asked for will be sent here, or the Chief Surgeon to be given authority to make contracts.

Very respectfully,
WM. R. SHAFTER,
Major General, Volunteers, Commanding."

HEADQUARTERS, U. S. FORCES,
TAMPA, FLA., May 20, 1898.

"GENERAL S. B. M. YOUNG,
Lakeland, Fla.

Dear General:—I send Major Jacobs up to you this morning, to look generally to the water supply, and to see what is necessary to be done, and to acquaint me with all the facts connected with it. I am surprised at the large number of sick in your command, and I suppose they must come from the Volunteers. I hope you are not obliged to drink water out of the lakes. No matter how good it is, it is not suitable water for human beings to drink. I have directed the senior Surgeon to look after the ice for the sick, and by the time you use up the temporary supply, which I authorized you to purchase this morning, I have no doubt he will have his arrangements completed. Please give Major Jacobs every facility to find out all about the water.

Very truly yours,
WM. R. SHAFTER,
Major General Volunteers, Commanding."

"Telegram. Tampa, Fla., May 20, 1898.

"Brigadier General S. B. M. Young,
Lakeland, Florida.

Purchase ice for temporary use upon certificates of medical officer that amount is necessary for sick. Please report at once cause of unusual sickness. It is one-third that of entire command here.

(Signed.) Shafter,
Major-General, U. S. V."

Headquarters, U. S. Forces,
Tampa, Fla., May 22, 1898.

"Memorandum Order.

Dr. A. H. Glennan, U. S. Marine Hospital Service, is herby authorized to detain all vessels of whatever description entering Tampa Bay, for the purpose of inspection, and, if found necessary by him, fumigation of vessel, and detention of all infected persons. The Doctor is further authorized to detain suspected cases under observation, and to disinfect baggage of any and all persons if he deems it necessary.

By command of Major General Shafter,
J. C. Gilmore, Jr.,
2nd Lieutenant 4th Artillery, A. A. A. G."

Headquarters, U. S. Forces,
Tampa, Fla., May 8, 1898.

"Major J. W. Jacobs, A. Q. M.,
Asst. to the Chief Q. M.

Sir:—The commanding General directs you to personally superintend the preparation of the transports for the reception of the troops and animals of the command.

Among many other matters requiring attention, you are informed that the water closet facilities, on all the ships, are limited. Take what steps are necessary and possible to correct this matter.

Also, and this is a very important matter, there are no adequate facilities for cooking coffee on any of the transports. Boilers or water tight barrels must be supplied and provision made to connect them with steam pipes for cooking the coffee by steam.

Please hurry the work to the utmost.

Very respectfully,

J. B. Babcock,
Assistant Adjutant General."

These cover the establishment of hospitals, the organization of the medical department, the location of camps for the men, and the purchase of various supplies for the sick as well as all quarantine and disinfection regulations, and the preparation of ships for the voyage from Tampa to Cuba.

The number of surgeons carried with the troops was considered sufficient for all ordinary occasions, and the amount of supplies taken ample for any sickness which might be exper-

ienced by the army while on the campaign. It was not expected, although it might well have been, that everybody would be ill; past experience of foreign armies in tropical countries having shown that the majority of them succumbed sooner or later to the diseases incident to the climate, and that no amount of precaution could avert the inevitable penalty which the stranger must pay to the paludal fevers of the tropics. At the time the English army invaded Cuba, and beseiged Havana, there was an American contingent from New England of some 2600 men, and out of that 2600 men but a small part returned, most of them dying from disease. The French army which invaded Hayti suffered in a similar manner. Out of the thousands which composed that army a greater part were lost. I cannot give the exact numbers, as I have not the data at hand, but reference to the records will verify my assertion. Whenever an army goes into the field, death from disease is a great deal more prevalent than death from bullets, as a certain class of diseases, called "camp diseases," although they are not peculiar to it by any manner of means, always exist, which no precaution, sanitary or otherwise, has ever been able to avert them. The history of the Civil War will demonstrate this, as well as the history of every army in the field in all wars since war first began.

For the past twenty-five years the medical profession has been teaching the public that certain diseases are preventable absolutely, can be "stamped out" by simple attention to the details of sanitary regulation, and yet, in this year of our Lord 1898, the same troubles have arisen in every camp wherein men have been congregated together as soldiers, in the west, in the south, in the north and in Cuba—yes, and in the far east, in Manila and in Honolulu as well. To say that this outbreak of disease in all the camps of the army of the United States has been due to lack of sanitary measures seems to me foolish. The putting on of the uniform of the United States army by a medical man should not, and does not, in my opinion, destroy his professional attainments, and I have no doubt whatever, that wheresoever the men were located, every measure to conserve to the health of the troops was taken with the most skilful care. In spite of all this, however, diseases: fevers, intestinal complaints, smallpox, measles, in fact, all of so-called infectious diseases have been pervasive.

When the advance guard of the 5th corps went ashore at

Daiquiri, on the 22d day of June, 1898, the commanding general issued orders that the recommendations of the medical officers of the command, were to be strictly followed, so far as the exigencies of war permitted, in everything pertaining to the health of the command. If buildings were advised to be burnt, that recommendation was followed out, even if by so doing men were deprived of the needed shelter which those buildings would have given them. All communication with the refugees was prohibited, and the refugees themselves were diverted to camps outside of the limits of our own. After the exodus from Santiago, wherein twenty odd thousand came into our lines, this non-intercourse order, of course, was impracticable. From my own point of view, I can not see that if even it had been carried out to the uttermost letter, the slightest diminution in the quantity of the disease or the quality thereof would have been the result. In all countries, and referring now particularly to Cuba, there are certain diseases which seem indigenous, and the acquirement of which is the necessary penalty of the strangers invasion of that country.

Referring to yellow fever especially, which brought forth the assertion of Dr. Senn, that the outbreak of that disease was due to the commanding general, it is necessary to call attention to the fact that in spite of the most painstaking investigation, as to its origin, mode of propagation, and means of prevention, by the most successful and scientific men of our profession, little if anything more is now known of the disease than was known in the beginning. That it is not a contagious disease is extremely well decided. Nor do I believe from my own experience with it—and that has not been inextensive in former years—that it is infectious in the usually accepted sense of the word. To illustrate this, I can best say that if we had burnt every building on the Island of Cuba, burnt over the ground, destroyed all the vegetation, and banished all the population, prior to our entrance into the island, yellow fever would have have broken out just as malignantly as it did under the existing conditions.

I greatly regret that the condition of my health at present prevents my entering more completely into an exposition of my views in regard to the sanitary aspect of the campaign, and I regret also, for the same reason, I am unable to make a complete history, by giving to you all the documents, in the shape

of orders relating to the conduct of the campaign, as the labor involved is prohibited me I wish to say, however, that based upon past experience, there was less suffering, either on the part of the wounded, or on the part of the sick, in the campaign of Santiago, than in any other with which I am conversant. War, in spite of the opinion of most of the people of the United States, and many of the medical profession included, is not a picnic. War is pure barbarism, even though made under the specious pretence of humanity, and, as in all barbarous proceedures, suffering has to be incurred. In the battles about Santiago, in great contrast with some of the battles of the Civil War, where men laid two, three, four and five days unattended on the field, by the night of the second all of the wounded were under shelter of some sort so far as known. They were not, it is true, on wire spring mattresses, in well-equipped hospitals, with a bevy of fair nurses, but that was hardly to be expected. The necessary haste with which the army had been pushed forward, to do the work of fighting, precluded the possibility of other preparations than those that were made. But it may be asserted without fear of successful contradiction, that every effort to care for both wounded and sick, was taken by the commanding general and his medical subordinates.

Two or three additional orders, concerning the precautions taken, are inserted.

"Hdqrs. 5th Army Corps,
Camp Near Santiago de Cuba, July 5, 1898.

"General Duffield, Siboney.

Refugees are reported as drifting down the road to Siboney. They should not be permitted to come into town, but sent up into the mountains towards the mines, where there are plenty of houses for them.

By command of Major General Shafter,
McClernand, A. A. G."

Siboney, July 7th, 1898.

"Lieut. Col. McClernand.

General Duffield directs me to inform you that General Shafter's orders concerning the refugees is being strictly complied with at Siboney, is being as thoroughly policed as possible with the small force at his command. Especial attention is being paid to the hospital and its vicinity, and that he has placed an engine and corps at the disposal of the Red Cross Society for the purpose of taking food to the refugees, though the Society has not taken advantage of the transportation. (Signed,)

F. M. Alger,
Actg. A. D. C., in absence of A. A. G."

THE SANTIAGO CAMPAIGN FROM A MEDICAL STANDPOINT.

BY CLARK BELL, ESQ., LL. D.

The subject presented to the consideration of the Medico-Legal Society, by Dr. George Goodfellow, an officer of General Shafter's staff, is one that has excited the deepest feeling throughout our whole country, and the assaults made upon the general commanding that department of the army, the Secretary of War and the administration, for its conduct of the war in that campaign, have been of the gravest and most serious character.

An investigation of the whole conduct of the war has been ordered, and is now progressing, before a commission entirely competent to do justice to the whole subject, and entitled to the full confidence of the country; but such has been the public heat and excitement, based upon the sufferings of the soldiers, and what has seemed extraordinary sickness among our troops, (as well those in our great camps, that were not engaged in the Santiago Campaign, as those who have been sent back since the armistice was concluded), that a strong distrust has been created, and now fills the public mind, as to the whole conduct of the war, both in its medical as well as its general military conduct, notwithstanding the marvellous successes that have followed our arms upon the Island of Cuba, and our navy in Cuban waters.

The Secretary of War has come in for the major share of the assaults, and General Shafter, at the close of a military campaign, the successful results of which are without parallel in modern times, has been made the target for assaults and blows, almost as fierce as the successful assaults of our fleets and our armies in the war itself upon the enemy. The present is hardly the moment to discuss with

calmness and deliberation the Santiago Campaign, from its sanitary side, as our vision is too much obscured, and our judgment warped, by the appalling illness of our soldiers, who have returned and are now in our camps, especially in our state, and in the great southern camps of the army in training, where the mortality has seemingly been more appalling than that of the army in the field.

The case cited by Dr. Gunn, based upon the diary of a young private soldier dear to him, a victim of the fever contracted in that campaign, is well calculated to arouse our sympathies, as well as cloud our judgments; and although the diary would not be received in evidence, and ought not to be in any court, because not verified and not intended for such a purpose, still its details arouse and excite our minds.

The incidents cited by Judge Dailey, as to life and neglect in the camps at home, of our returning soldiers, pain us now. They furnish a stirring and graphic statement of what our brave boys have endured and suffered; but they teach us by terrible object lessons, the truth of what General Sherman said in speaking of war: "War is hell."

I do not, I hope, disparage or moderate the sufferings and privations of our troops in this recent war with Spain, when I say, that no one would for a moment compare them to what our fathers endured at Valley Forge, and in the terrible struggle of the old Revolutionary War.

Have we reason to believe that they were greater than were endured by both armies in the War of the Rebellion, in 1861, and the terrible years that followed that unhappy struggle? While we should hold every officer and every surgeon to the strictest accountability, we should take particular pains not to allow our feelings, wholly unaccustomed to such considerations, or our judgment to exaggerate the events which are the necessary concomitants of war.

It is due to the administration at Washington, to assert that the President and the Secretary of War, and the whole administration, had decided and determined, early in the spring, not to land troops on the soil of Cuba during the summer of 1898.

General Miles had opposed it in the most strenuous manner. This policy was based on two reasons, either of which was apparently insurmountable:

1. The war came upon us so unexpectedly, and so suddenly, that we were wholly unprepared, both as to arms, munitions of war, soldiers, and the thousand and one concomitants of preparation for the creation and mobilization of a great army. None knew better than the President and the Secretary of War how wholly and utterly unprepared we were for the actual invasion of Cuba, before the month of October at the earliest, considering the defenses of the fortified Cuban cities we were to capture, and the very large army of immunes that Spain had in her fortified towns and strongholds on that island.

2. No one, with the knowledge we all have of Cuba, would for a moment seriously consider and attempt any great work, involving the landing of men on that island, for laborious effort of any kind, during the months of July, August or September, in any year, even under the most favorable conditions, as for example, the construction of a railway or any public work, without the certainty of thyphoid fever, dysentery, or the terrible yellow fever, to which certain localities on that island are subject.

But "duties are ours, events are of God." The circumstances of the campaign in June overrode all other considerations. None could have foreseen or calculated that remarkable succession of events that followed the destruction of the "Maine," in the harbor of Havana; the marvellous victory of Dewey at Manilla—the capture of the Philippines, and the annihilation of the Spanish fleet in the Pacific Ocean; the events that led to the corralling the Spanish fleet in the harbor of Santiago, and its subsequent annihilation by Admiral Sampson, and our splendid naval triumph before that harbor upon the sea. What did it matter that this last was in early July, when the summer months were just commencing. I call on all men to witness that it was not within the power of the administration then not to have advanced and captured Santiago.

Not a human voice was raised against that campaign.

Even the cautious, conservative and superb General Miles, commander of the army, consented to the invasion before the suns of July had come.

The heights surrounding Santiago were not like the pest holes surrounding Havana. It may have been rash to follow up our advances and advantages at the opening of summer, but none of us thought so then, and the administration should not now be censured for making that advance, and consummating one of the most superb and masterly conquests among recent military successes.

Sanitary Precautions.

Our war in Cuba is like all other wars, where many more men die of disease and in the hospitals than in the field. This has been the history of all wars. There is no more careful, considerate and experienced man in any army in the world than the commander in chief General Miles, and when despite his repeated and incisive objections to a summer campaign of invasion, it was decided to land troops in Cuba in June, 1898, he took every precaution in human power to prepare our troops for the perils of such a campaign against disease.

When his orders are given to the country they will be be found to be complete, comprehensive and to omit nothing that human ingenuity could have devised to prevent disease and save life.

General Geo. M. Sternberg is the most competent man in the medical profession in the whole world in any army, to grapple with the sanitary problems of such a campaign as our invasion in Cuba in the heat of summer necessitated. There is no man in the medical profession in America, and I know of none in the world, who has greater and more scientific knowledge and experience in yellow fever than he.

His studies in the field before he was surgeon general of our army are the medical classics of our era. He furnished me years ago slides, from his own studies, of the blood in yellow fever and cases, to illustrate my work upon the red blood corpuscle, and was present with me and assisting when I gave that subject an exposition before the Liberal Club of this city with the 'stereopticon illustrations of his

observations in cases of yellow fever upon the red blood corpuscle.

The ablest medical surgical talent in our country was called into instant requisition by the surgeon general of the army and utilized.

Surgeon General N. Senn, probably the most eminent surgeon of his age on our side of the Atlantic, the surgeon general of the state of Illinois, was called into close conference and consultation, and Prof. Victor C. Vaughan, of Ann Arbor, Michigan, two of our most eminent conferes of the Medico-Legal Society, were summoned to the aid of the medical department of the army, and I do not hesitate to say that when the story of the steps that were taken come to be all told and studied, that the verdict of the impartial historian will be, that the success of the medical department of our army, when it is regarded in its whole broad aspect, with its exigencies, its environment and contrasted with other armies under similar conditions, was marvellous as those of our land and our naval forces in the war with Spain.

I know of no more applicable contrast to make than with that of the French army in Algiers, and the entire death rate of our army, when compared with that of the French army in that campaign, will show that our loss will be far not only below that of the French army, but that of any estimate made in advance of the per centage of probable loss by any competent expert who considered the subject. I will go farther and say that when we contrast our total loss of all the troops landed in Cuba from sickness, disease or even all causes, it will be so far below the average of the losses naturally expected, as to be a marvel, and to entitle the medical department of the army to the thanks of the country.

The one officer who has suffered most, and with least reason, as it seems to me, in this affair, has been General Shafter, in command of the Department of Santiago.

He was entrusted by the government and the commanding general with the conduct of this campaign, the results of which will be the most marvellous and glorious of our

wonderful successes. With an inferior force he succeeds in capturing Santiago in an incredibly short space of time; and he receives, at the surrender of Santiago, a larger force than he commanded in its investment.

So great has been the prejudice against this officer, that his enemies and detractors seem hardly willing to give him the credit of his splendid success, or accept the lustre which his achievement adds to our arms.

From my standpoint, the military record of General Shafter will remain as one of the signal successes of the campaign not only, but of the whole war with Spain; and his name will go into the galaxy of the successful generals of our era. It is to his credit, and he should have the thanks of his countrymen for his work, and especially for calling on to his own staff Major Geo. Goodfellow, one of the leading surgeons of the Pacific coast, as his staff surgeon, and aid-de-camp, to have near him a surgeon competent to grapple with any medical or sanitary question that should arise. Major Goodfellow has been for some years one of our members, and I asked him to give the results of his personal knowledge and experience of this campaign. I deeply regret that an accident has deprived us of the pleasure of hearing him on this occasion.

The report of Dr. Frank W. Ross, one of our members, also in the service, was made at our request, and appeared in the September number of the Journal.

I think it will be of interest to submit, as a part of this discussion, the recent report of Lieutenant Colonel V. Havard, Chief Surgeon of the Department of Santiago, to the surgeon general of the date of September 16, 1898, kindly furnished by Surgeon General Sternberg, as bearing upon this question:

HEADQUARTERS DEPARTMENT OF SANTIAGO,
CHIEF SURGEON'S OFFICE,

September 16, 1898.

My dear General:—Various reports published by the members of the Red Cross Society, concerning the first days of Siboney, have convinced me that a little more correct information on the subject will be in the interest of truth and justice. Being one of the medical officers most con-

cerned, my statement of facts, as I observed them, may be useful, and is respectfully submitted for such use as you may deem best to make of it.

The first division of our troops was landed at Diaquiri and swiftly advanced to Siboney, which it occupied without resistance. On the 24th, the transport Allegheny, upon which I was, with other members of General Wheeler's staff, steamed down to Siboney, and it was only on the morning of the 25th that I was able to make a landing. This landing was accelerated by the news of the fight which had taken place the day before, in the jungle of Guacima, brought by a newspaper man. Fortunately we had kept on the upper deck, in an accessible place, three medical and surgical chests quite a lot of additional articles, a small bale of blankets and a few litters. All these we quickly transferred to a rowboat and successfully landed, so that there was no suffering, at any time, among my patients, due to any want of medical attendance, medicines or dressings. We also had abundance of rations, which were cooked and served without counting.

A large store room, much dilapitated, but with plenty of doors and windows, seemed to be the best place for our provisional hospital. I already found a few patients there, and hastened, with one assistant surgeon, two acting stewards and four hospital corps men to make the place as clean as possible. The wounded, some forty in number, were brought in during the whole day of the 25th, on all kinds of improvised litters, about five miles over a very muddy trail, in the heat of a tropical jungle, but all arrived safely. This transport by hand of the wounded, by their devoted comrades, struck me as hardly less heroic than the battle itself.

We laid the patients in two rows upon the hard floor, with hardly room enough to pass between. We were almost entirely destitute of cots and blankets, the few litters we had brought from the ship being used as bunks for the worst cases. With and after the wounded, came in a steady stream of cases of heatstroke, remittent fever and dysentery. Soon the floor space in the main room was crowded, the patients lying side by side; other adjoining rooms were utilized, securing light and ventilation by knocking down the partitions, but before long the whole building was overflowed, and patients had to be placed upon a narrow, rickety porch, more or less exposed to rain and sun. To make matters worse, cases of measles came in and had to be provided for; this we did in a nearly contiguous rum shop, exceedingly filthy, but with one front room susceptible of some degree of cleansing; in this we crowded 26 patients, several sleeping on the large counter.

Our kitchen arrangements were a comparative success; we had an active and intelligent cook, who knew how to "hustle" in an emergency; he got together the necessary utensils, and enough of substantial food was provided from the first. An unexpected and much prized discovery, in the village, was a half dozen casks of excellent and wholesome Spanish wine, which was turned over to the hospital, and probably saved several patient's lives.

However, our position was pitiful; the patients lying on the floor, mostly in their trousers and flannel shirt; they had all, with few exceptions, thrown away blouses, blankets and ponchos; the few blankets we had also brought with us did not go far in this great need. The days

were very hot but the nights unexpectedly cold and some thick covering required for comfort. As already stated, we had nothing better to feed these men than the ordinary articles of the soldier's ration, with but few delicacies which did not last more than a day; yet, in spite of all this destitution, I do not remember that a single man brought into that building died there. In two or three days the hospital ship Olivette arrived and most of the wounded were carried upon her. On the 29th I transferred the few remaining patients to Dr. La Garda and rejoined my division at the front.

From the beginning, Miss Clara Barton's ship, City of Texas, lay in the bay. Realizing the futility of expecting stores from the holds of our ships, although anchored only a few hundred yards from the shore, I rowed to the City of Texas and called on Miss Barton the day before I took charge. She received me kindly, listened to my tale of suffering and promised to send some cots, blankets, and whatever food stores for the sick she could spare, the primary object of her charity, as she explained, being the Cuban rather than the American soldier. She was as good as her word; only a few cots came, but the blankets were nearly sufficient to give one to all patients who were without any.

Next day, some of the members of her staff visited the hospital and, in my absence, asked my assistant what they could do for the comfort of the patients. This assistant took upon himself to decline their kind offer of services, not even notifying me of the occurence. Here I may remark that I was surprised the gentleman who accompanied the ladies should not have inquired for the officer in charge of the hospital and responsible for it; probably I was stealing a nap in some corner and would have been easily found. Therefore, I was quite amazed when, later in the afternoon, an elderly lady and a younger one appeared, both meeting me in the middle of the main ward with marked frigidity of manner and addressing me with unmistakable acerbity of tone; sweeping their arms along the rows of patients, they asked me how I could stand unmoved at such pitiful sight and scorn assistance when I stood in need of everything. The younger lady was particularly persistent in discharging her injured feelings upon my innocent head, and it required considerable self-control not to betray myself into an expression of impatience. They told me all that they had accomplished at the Cuban hospital, half a mile away; how the floors had been scrubbed fresh linen put on the beds and every patient made comfortable; that it was a shame they should not be allowed to do the same for the American soldiers. I succeeded, in time, to make them understand that a very unpleasant mistake had occurred for which I was very sorry but blameless; that, on the contray, I had, from the beginning, been hoping for their help and was ready and anxious to receive it at any time, the sooner the better. One of the Red Cross gentlemen joined us at about this time and I offered him the same explanation and extended the same request. It was then agreed that the ladies would come next day. They accordingly appeared in the forenoon and I showed them the uninviting field of their volunteer labor. The inquiry was naturally made where they could find a room for themselves; I told them there was absolutely none in the two buildings occupied by the patients, the medical officers taking their

chances at any unoccupied part of the porch. I took them about four hundred yards to a barn which had an habitable room, or rather a room which could have been made as habitable as was needful at that time and place; they consulted between themselves, gave me som eevasive answer and went away to the Cuban hospital where they remained. Never afterwards did they return to my hospital or offer personal services. In other words, to speak plain truth, an earnest appeal was made to them and they did not respond. Their reasons may have been good and I never questioned them, but I have wondered why in their accounts of those painful days, I am blamed for refusing the services of those ladies when, in fact, they refused to give the services that were asked.

This instance did not however alter my high appreciation of the Red Cross: even at Siboney, if I missed the deft fingers of sympathetic nurses, I received substantial help in other ways. Later, at the field hospital, on the Santiago road, after the dreadful days of July 1st and 2nd, when I saw Miss Barton, with another lady, arrive on an army wagon over one of the worst roads in the world, and, without any rest, go to work and prepare soup over a camp fire, I realized that a society inspired by such a leader could not help being fruitful of good results. Therefore I obeyed a very natural impulse when, at Santiago, the day before her departure, I called on Miss Barton and, in the name of the Medical Department, expressed to her my grateful acknowledgements for all her society had done for us in our times of need.

Very respectfully,

V. HAVARD, Lt. Col. Chief Surgeon.

This report will throw light upon a phase of the subject which has been the subject of criticism, of alleged incivility to the Red Cross Service, and the alleged friction between that service and the army surgeons and nurses in the war in Cuba.

I take pleasure, also, in furnishing, as a part of this discussion, a statement from a high authority as to the autonomy, scope and work of

The Hospital System of the Fifth Army Corps.

The organization of the division hospitals of the 5th Army Corps was begun May 3rd, at Tampa, Florida. There is ample testimony to show that long before the Corps embarked for Cuba, its field hospitals were in condition for efficient service and that although its ambulance companies were not filled up to their intended strength nor fully equipped with ambulance wagons, horses and harness, such sections of them as had their equipment completed were well drilled in hospital corps work and ready for efficient service. Each hospital had about eight six-mule wagons to haul its tentage and supplies. The equipment of the 2nd division hospital was completed at an early date. It contained eighty-five cots with a sufficiency of furniture and necessary fixtures; and as the demand for extra accommodations increased the capacity of the hospital was augumented to 150 beds. The operating tent was provided with enameled steel fold-

ing operating tables, steam sterilizers and water heaters, a bathing tent, bath tubs, wash basins and other necessary appliances. The hospitals of the 1st and 3rd Divisions and the Cavalry Division were similarly outfitted. In addition to these field hospitals certain medical supplies with one acting steward, one private, one hospital and one common tent, one ambulance wagon and the necessary animals fully equipped were retained as a mininum allowance with each regiment. (General Orders, No. 14, Hd.Qrs. 5th Army Corps, June 6th, 1898.)

Subsequent events however rendered valueless these preparations of the Medical Department for active service in Cuba. When the command embarked on the transport vessels the baggage wagons and mules were left behind "and were never seen again by the Medical Department of the 5th Army Corps." The ambulance trains of all the divisions with a large part of the outfit of each of the hospitals were also left behind. Three ambulance wagons were taken apart and stored on one of the vessels. These did excellent service at San Juan and El Caney and showed how efficient the ambulance companies would have been had they not been deprived of their equipment. Thirteen of the ambulances of the 3rd or reserve division were subsequently shipped to Cuba where they arrived July 2nd, and were of value in moving the sick and wounded to the hospital at Siboney and to the hospital ships and transports, while the ambulance service of the division hospitals of this command was practically destroyed by these failures to embark or disembark its wagons, harness, horses and mules. Part of the tentage and property of the hospitals was left at Tampa with the sick left there and of the property and supplies carried to Cuba a portion was not available for service at the time it was most needed, to wit: on July 1st, 2nd and 3rd, when the wounded from El Caney and San Juan were coming from the front for care and treatment. This was because in general no opportunity was afforded to land the medical property, because there was no transportation on shore for such articles as might be landed and because the masters of the transports took their vessels out to sea after the debarkation of the troops because of their fear of wreck by collision with each other or by drifting on the rocks. Earnest efforts were made by medical officers to have supplies at the front with the troops. Some having succeeded in getting their medicine chests and other articles of medical property ashore had these carried forward on litters by hospital corps men to the camps near Seville, while others turned their private mounts into pack horses for this purpose. A reserve supply of medicine shipped on the Segurance from the purveying depot at Tampa was landed June 27th. These issued to regimental medical officers materially relieved the stress caused by the loss of regimental medicine chests.

The tents and property of the 1st division hospital were landed by the efforts of the hospital corps men under the direction of Major M. W. Wood, Surgeon U. S. Army. The hospital outfit was carried to the front by hand and on litters used as hand barrows by the nurses and attendants.

The second field hospital landed was that of the cavalry division under Major McCreery, but the transport put to sea before the whole of the the property was removed from her. The third, which was landed from the Saratoga, after many delays, afterwards became the base

hospital at Siboney. To this was sent all the medical supplies recovered from the transports, or landed from the hospital ship Relief. The fourth divisional hospital of the corps was retained on the steamer Olivette, which was thus extemporized into a hospital ship. The tents and camp outfit of this hospital were landed for service at Siboney. During and after the battles at El Caney and San Juan, there was an insufficiency of tents, cots, bedding and medicines, due to the cases already stated, but all the hospitals were well equipped for surgical work. Early in the second week in July, a few cases of yellow fever appeared among persons who had occupied the huts at Siboney, and day by day thereafter a steady and rapid increase of the disease was observed. This necessitated the establishment of a yellow fever hospital and of a detention hospital, in which cases of a suspicious character, coming from the camps, were held, pending a decision as to their nature. The want of shelter was seriously felt at these hospitals, and was, under the circumstances, corrected but slowly when tents could be spared from the base hospital at Siboney, and from the first divisional hospital, as its wounded were removed for transpor ation from Cuba.

After the capitulation of Santiago, the troops at the front broke down rapidly, under the fatigues they had undergone and the malarial influences to which they were exposed. Remittent and typhoid cases became exceedingly common. To relieve the pressure on the field hospitals, such convalescents and sick as could bear the journey home were sent to the United States on transport vessels.

Up to August 31st, there were treated in the 1st division hospital 532 cases, with a mortality of 55; in the yellow fever hospital 549 cases, with a mo tality of 46, and in the reserve divisional hospital, or base hospital, 2678 cases, with 101 deaths.

By this time an ample supply of tents, furniture, bedding, clothing, and medical stores had reached Siboney, together with a corps of trained nurses, and a force of surgeons; those sent to duty at the yellow fever hospital being immune to that disease.

Sensational Journalism In The Medical Press.

It is to be expected that the lay press, now that the war has ended, must have something scandalous to publish as to the conduct of the war, both of the army, the government, and the medical department; but there is no good reason why medical journals should join in the crusade of panic and calumny that now fills the air against the Secretary of War and the Medical Department of the army.

The assault of the *Medical Record* upon the Surgeon General was ill-advised, in bad taste, and productive of no good results.

The vigorous replies of Surgeon General Sternberg, of

Surgeons N. Senn and Victor Vaughan dispose quite completely of these calumnies.

We publish a letter from Assistant Surgeon Frank W. Ross, from Camp Alger, Va., as a part of this peculiarly unpleasant controversy. The simple truth is, that the success of the American arms in Cuba is simply marvellous and almost unparalleled.

The conduct of the Secretary of War, who has so successfully conducted our troops to victory, deserves and must receive praise, not censure.

When we reflect that we have been compelled, by the progress of events, to depart from the policy of the President not to land troops in Cuba in the yellow fever season, and have conducted a successful campaign, and ended it in the dog days and in the hottest summer season, and that deaths in the hospital and camp from disease are not barely half what any expert would place them at as a pre-estimate, is it not a scandalous outrage to assault the successful officers for the administration of the war, while the world is ringing with the echoes of our lustrous victories, and to assail the Surgeon General and the medical service of the army, which time and results will demonstrate will be the most remarkable part of the war, and greatly less than all military authorities would expect?

We have no sympathy with the promoters of these scandals against the Secretary of War, the Surgeon General of the army, the Commanding General, General Shafter, or the President of the United States. No matter what the lay press does, let the legal and medical press of the nation give praise to the army, the navy, and the officers, who have gained us such glorious victories and advanced the standard of our country at least half a century in the estimation of mankind.

THE SANTIAGO CAMPAIGN FROM A MEDICAL STANDPOINT.

BY DR. F. MEDINA FERRER.

I am not a soldier, and hence am not competent to either criticise or defend the conduct of the Cuban Campaign from a military standpoint.

But, being a native-born Cuban, and at heart and by naturalization, a thorough American, a graduate of the highest medical universities of Havana and Paris, and a physician, who, in the practice of his profession for fourteen years, over the whole length and breadth of Cuba, has acquired a thorough knowledge and practical experience of its climate, climatic effects, sanitary conditions, and sanitary and medical necessities, I certainly should be competent to speak intelligently from a *medical standpoint*, not only of the conduct of the medical department during the preparations for, and the actual invasion of Cuba, but also of the far more seriously important question: The conduct of the medical department in the protection of the lives of our soldiers of the army of occupation, which must now be sent there, and which, without the closest attention, and most intelligent care that can be given, by an ample corps of experienced physicians of the highest type of education and experience, will be called upon to face dangers far more serious than Spanish bullets. Dangers which science, experience and precautionary care and treatment alone can reduce to the minimum, or conquer entirely

Of the army of invasion and the Santiago Campaign, I will only venture to remark, that, never in the history of the world, has the tremendous undertaking of enlisting, arming, equip ping and providing for an army of 200,000 raw recruits, been accomplished in two short months, and never before have 20,000 untrained, unacclimated northern men, been hurried aboard transports, in the heat of a southern summer; held there by force of circumstances, to swelter for days, then landed upon the burning sands and miasmatic low-lands of a tropical clime, and fought at once in a wilderness of tropical growth, in tropi-

cal heat by day, and in the chilling coolness at night, against acclimated, well-armed and entrenched troops, with such comparatively insignificant loss of life.

Harsh and thoughtless criticism may well give place to amazement, that with all that necessary haste, and consequent mistakes, under all that sudden and fearful exposure, thanks to the stamina and constitution of the American soldier, and to the evident ability of the American physician, who examined and passed him at his enlistment, and who cared for and administered to him to the best of his ability, with the means at hand, in the camp, on the transport, and upon the field, we are able to show the most astonishing record, that death was able to claim only one per cent. of that great army of recruits in consequence of either wound or disease.

But now the most serious problem, viz.: the proper medical care and protection to the American army of occupation, confronts us. True, Spanish bullets are now as impotent as Spanish rule or interference, but the microbes of 400 years of Spanish abuse, extortion and criminal sanitary neglect, are but awaiting the unacclimated army of occupation, to continue the war of their Spanish propagators, until by cleanliness and scientific disinfection, they are utterly routed and exterminated. Hence, upon the Surgeon General, and his staff and assistants, even more than upon the commanding general of the army, must now fall the responsibility of protecting and saving the lives of civilians, officers and men, whose duty calls them to guard, clean and disinfect each and all of Cuba's cities.

I say all of her cities and I mean just that. I have traveled the island throughout in the discharge of my professional duties and I make no exception.

Yellow fever, originally "the Sickness of Siam," is a contagious, microbic disease, endemic and epidemic, and is found in its most virulent forms in the low lands along the coasts, and is characterized by vomit, hemorrhages and a yellow discoloration of the skin more or less marked. The microbe of the disease has been but recently discovered by a Brazilian physician.

It is endemic in tropical parts, because the intense heat of the sun is very favorable to the growth of the germs, and a stranger coming into any of these places is almost certain to contract it, and while people born and reared among yellow

fever conditions seldom take it, they are nevertheless weak and unhealthy.

Whites are more susceptable to the disease than blacks, men more than women, and adults more than children.

Yellow fever in Cuba is confined to large cities, the sanitary conditions of which it is impossible for me to describe in the time allowed me, and is found outside of the cities only when carried there by the traveling public, and a countryman coming into a city of Cuba for the first time is just as liable to contract yellow fever, as is an American or any other person coming to the island.

The only possible way to in future avoid the needless sacrifice of such useful men as Col. Waring, and the officers and men of the army, is for the Ameican government to take such full and arbitrary control of Cuba, as to compel both civilians and soldiers, who are obliged to live upon its soil, by the most arbitrary rules and discipline, to strictly comply with such sanitary and hygienic rules and conditions, as may be laid down by the best and most experienced physicians, for the protection of health and life. And to that end, it would certainly be wise for the American government, war and medical department to secure the active services of as many competent physicians, who are personally acquainted with the climate, its conditions, diseases, etc., as possible, and accept to the greatest possible extent, their advise as to such necessary precautionary measures as the avoiding of all unnecessary exposure of the soldier to the intense heat of mid day, the coldness of night, etc., etc.

Without enlarging upon the untold value of precautionary measures and careful treatment, I will give a single illustration in my own experience, with between three and four hundred unacclimated men in Havana, who were employed in a large brickyard, working constantly in mud and water, under the most unfavorable conditions, not one of whom had yellow fever during my term as physician in charge, and in closing I wish to say most emphatically, that having during my practice there made a study of yellow fever, and the kindred diseases peculiar to that country, that when cleanliness and order prevails. and the germs of yellow fever are eradicated, as they certainly can be, there will be no land or island on earth more healthful than the Island of Cuba.

THE SANTIAGO CAMPAIGN FROM A MEDICAL STANDPOINT, AND THE MODERN STEEL-JACKETED BULLET.

BY DR. V. HAVARD, EX CHIEF SURGEON FIFTH CORPS.

Disease, even more than gunshot wounds, is the inevitable result of war and can never be entirely prevented. It may often be due to mistakes, but man is not perfect and no general can foresee all the conditions he is to confront and submit to. What appears a shortcoming now, might have been a display of good judgment under different circumstances. The malarial fever which played such havoc with our troops could not be avoided; being given the climate of Cuba, namely, the abundant rains, intense heat, and consequent luxuriant vegetation, fever, or at least the fungus of fever, is a necessary result; experience has shown that it will attack and disable a majority of all newcomers from northern and temperate climes. Immunity or acclimatation, in my opinion, cannot be obtained by prolonged residence; it is only the privilege of those born and brought up in the tropics, and is acquired at the expense of body and mind. Therefore we must expect this fever always to prevail among American troops whenever sent to Cuba; the only way to avoid this evil will be by the enlistment of natives, after the manner of England in her colonies; such use of acclimated islanders appears to me the proper and logical solution of the difficulty in our tropical possessions.

Quite different it is with yellow fever; this is a preventable disease, and can be stamped out, or at least reduced to almost harmless proportions. During the campaign there were well-founded fears that it would break out in a virulent form, and a well-known authority had so predicted, but owing to the separation of the regiments, and the isolation of cases as soon as recognized, no epidemic occurred, and the type remained unusually mild.

Those who think our losses excessive from disease in Cuba, may find food for reflection in the study of the losses of the French in Madagascar, a few years ago; they carefully pre-

pared their expedition, took only picked troops, and operated in the most favorable season; yet, as forcibly expressed by one of their surgeons, "all were sick and one-half died."

I entirely agree with Dr. Goodfellow, that the medical officers gave proof of great zeal and devotion in accomplishing so much under such unfavorable circumstances. They certainly spared no effort in advising officers and men, and impressing upon them the necessity of certain essential precautions to avoid disease; unfortunately, the necessary means were not always at hand; for instance, drinking water could not be boiled in the absence of kettle and pan; wet clothing could not be changed when, as often happened, the change of underwear had been thrown away with the knapsack, and the building of bunks was or seemed impossible to the sick and indolent. No medical officer can enforce these precautions unless he has the active and intelligent cooperation of all line officers. As to medicines and medical stores, there is no question that there was a scant supply of them at times and in places, due in great part to the difficulty or impossibility of unloading transports, but also to other unavoidable causes. I do not believe, however, that this scantiness was of such character as to have any serious effect upon the mortality of the sick and wounded.

I may be permitted, on account of its interest and importance, to touch upon an aspect of the subject not referred to by Dr. Goodfellow: that is, the effect of the modern small steel jacketed bullet, as observed upon our troops and those of the enemy. It had been predicted that no division or brigade could assault an entrenched position without running the risk of annihilation; yet, our men captured San Juan Hill with less than 13 per cent. of casualties (killed and wounded) of all troops under fire. It has also been established that the proportion of killed to the wounded is less than formerly, that the wounds are practically asceptic, and heal rapidly, often by first intention, and that a majority of penetrating wounds of the abdomen and chest get well without surgical interference. Operations are now seldom required. Among the 541 wounded Spaniards admitted to the military hospital, not a single amputation was deemed necessary or performed. In a word, the new bullet appears to possess all the advantages which surgeons and philanthropists have long desired.

PSYCHOLOGICAL.

This Department is conducted with the following Associate Editors:

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as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1 50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico Legal Society on an annual subscription of $1 50, payable in advance and receive the MEDICO-LEGAL JOURNAL free. The officers for 1898 are as follows:

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The following persons have united with the Psychological Section since last announcement:

Chief Justice John Burford, of Oklahoma Territory, Guthrie; Charles W. Kimball, Esq., District Attorney, Pen Yan, N. Y.; Surrogate John A. Vance, Gouverneur, N. Y.; Fred. C. Hamilton, Esq., Brooklyn, N. Y.

THE PSYCHOLOGICAL SECTION—MEDICO-LEGAL SOCIETY.

THE COLLINS STATE HOMEOPATHIC HOSPITAL, at Gowanda, intended to accommodate 1500 patients, has been opened by the transfer of 47 men from the State Hospital at Buffalo.

THE QUEBEC MEDICO-LEGAL SOCIETY —This is an organization composed of the physicians attached to the insane asylums of the Province of Quebec, Dominion of Canada, who organized February 16, 1898, at the St. Jean de Dieu Lunatic Asylum. Its first regular meeting was held at the same asylum, June 14, 1898.

Its officers for 1898 and 1899 are as follows: President, Arthur Vallee, M. D., superintendent of the Quebec Lunatic Asylum; Vice-President, T. J. W. Burgess, M. D., superintendent of the Protestant Hospital for the Insane at Verdun; Secretary, E. P. Chagnon, M. D., assistant physician of the St. Jean de Dieu Asylum, Longue Point.

Dr. Geo. Villeneuve, Med. Supt.; Dr. F. E. Devlin, Asst. Supt.; F. X. Perreault, M. D., A. J. Prieur, M. D., C. V. Lavolette, M. D., A. Marios, M. D., Asst. Supt., A. Belanger, M. D. and C. S. Roy, M. D., Asst. Physicians to the Quebec Insane Asylum; L. J. O. Sirois, M. D., Physician to the St. Ferdinand and Halifax Asylum and J. V. Auglin, M. D., Asst. Physician to the Protestant Hospital for the Insane, Verdun, are among the members of the Society. At the July meeting Dr. Villeneuve, Dr. Devlin, Dr. Burgess and Dr. Vallee, contributed and read papers.

THE AMERICAN ASSOCIATION OF ASSISTANT PHYSICIANS IN HOSPITALS FOR THE INSANE held its annual meeting on 28 and 29th September, 1898, at the Illinois Eastern Hospital for the Insane.

PERSONAL.

DR. FRANK C. HOYT, for several years Medical Superintendent of the Hospital for the Insane, at Clarinda, Iowa, has re-

signed. He will engage in private practice, and conduct a sanitarium in Chicago, Ill.

Dr. A. B. Richardson has been appointed Medical Superintendent of the new State Hospital, at Massillon, Ohio, which opened in September, 1898. Dr. C. H. Clark, formerly of the Columbus State Hospital and of the Hospital for Epileptics, at Gallipolis, and Dr. C. B. Rogers, formerly an interne at the Marine Hospital, at Cincinnati, have been appointed as Assistant Physicians.

Dr. Mary O'Malley has been appointed Woman Physician at the Binghampton State Hospital, Binghampton, N. Y.

Dr. Chas. W. Page, formerly Superintendent of the Lunatic Asylum at Danvers, Mass., has been appointed Superintendent of the Connecticut State Hospital for the Insane, at Middletown, Conn.

Dr. Max E. Witte, formerly First Assistant Physician at the Iowa State Hospital for the Insane, at Mt. Pleasant, has been appointed Superintendent for the Insane, at Clarinda, Iowa, succeeding Dr. Frank C. Hoyt, who has resigned and gone into private practice at Chicago, Ill.

Dr. Havelock Ellis.—We learn with regret, which will, we feel, be shared by all the scientific world, that this gifted author has decided not to publish, in England, his great work on "Sexual Inversion," or the completion of his series of announced volumes on the Psychology of the Sex, of which only the initial volume has appeared.

This action has been due to the conduct of his publisher, Mr. George Bedborough, who was indicted for the selling of the work as "wicked, lewd, impure, scandalous and obscene," and who, although Mr. Ellis had retained eminent counsel and raised a considerable sum of money to provide for the defence, shortly before the trial came on, last October, without consulting those whose support he had accepted, plead guilty to a part of the charge, and Mr. Ellis and his counsel were unable to obtain even a hearing upon the trial; and the defendant, in pursuance of an arrangement made with the prosecuting counsel and the Recorder, (Sir Charles Hall), was discharged upon his own recognizance.

It is incredible that such scandalous conduct, on the part of the authorities and the Recorder, should pass unnoticed and unrebuked.

The animus of the Recorder might be in doubt, if it were not for his language on the occasion. He said from the bench to the prisoner: "You might at the outset, perhaps, have been gulled into the belief that somebody might say this was a scientific book. But it is impossible for anybody with a head on his shoulders, to open the book without seeing that it is a pretence and a sham, and that it is merely entered into for the purpose of selling this filthy publication."

This officer has never been credited with being a person of any scientific attainments. That his education upon such questions has been seriously neglected is established by his own testimony.

It is doubtful if any scientific authority on the continents of Europe or America, or in the British Islands, would agree with the language he used. He has, by an illegal and reprehensible abuse of his position, consented to the substantial release of the publisher, without punishment, whom he believed was guilty of a crime, and stabbed in the back, and without any excuse or opportunity of being heard, one of the most brilliant of the British writers, of his time and our era, on subjects connected with criminal anthropology; and no matter what his past career or character may have been, he will receive, as he justly deserves, the contempt of the whole scientific world.

The honorable career of Mr. Havelock Ellis cannot be seriously compromised by such an unmerited assault from the bench, and it is a marvel how our English cousins, with their love of fair play, would submit to such aspersons upon the motives of a gentleman of Mr. Ellis' character.

There can be no doubt that Mr Ellis made a serious mistake in selecting his publisher. Mr. Bedborough may have been a dealer in obscene books, and a *persona non gratia* with the Court or the authorities. It is stated that he has published a magazine devoted to the propoganda of unconventional views upon marriage, and the book of Mr. Ellis may have been, in the judgment of the authorities and the Recorder, tarred with the same stick with Mr. Bedborough's other publications—we do not know. Even were this so, (which was, as we think, a grave error on the part of Mr. Ellis), it would not change the character of the unjust accusation made against the work by the Recorder, but would bear in mitigation and explanation of the judicial utterances; but the lesson to Mr. Ellis, and to writers generally, would remain, that authors, as well as men,

are known and judged by the company they keep, and Mr. Ellis may, like poor Tray, have been cudgelled by reason of his unfortunate environment.

DR. SIBBALD is about to retire from the Commissionership of Lunacy for Scotland. He has been the right man in the right place, and his whole public career has been not only honorable to himself, but useful in the highest and strongest sense to the public service. Dr. Sibbald will carry with him when he retires from this office the respect, the esteem and the full confideuce of all his colleagues.

DR. J. F. SUTHERLAND, of Edinburgh, Scotland, senior Deputy Commissioner in Lunacy for Scotland, not only stands in the regular line of promotion to the post of Commissioner in Lunacy for Scotland, to be made vacant by the retirement of Dr. Sibbald, but he has rare qualifications for the position.

He was appointed Deputy Commissioner in Lunacy for Scotland, in January, 1895, nearly three years ago, to succeed Dr. Frazer, and his selection was then regarded as most commendable.

His previous service, education, training and experience in official positions peculiarly fitted him for the duties of senior Deputy Commissioner at that time, and we know of no one, likely to be an aspirant for the Commissionership, whs would unite more of the important elements requisite to qualify a man to fill this high position than Dr. Sutherland. We hope to hear that her Majesty's Secretary for Scotland will approve of and recommend his selection.

WE LEARN from the *Louisville Times*, that the legal gal contest about the Professorship of the Kentucky School of Medicine has resulted in the restoration of Dr. Walthen and his associates, by the decision of Judge Miller, and that Prof. Walthen remains Dean of the faculty. The question before Judge Miller seems to have been whether the Board of Regents have control in such matters or the professors, and the court holds that the former have the power. It is likely to be appealed to a higher court.

JUDGE A M. TALMADGE, who has served for five years as Probate Judge, at Bridgeport, Conn., by the revolving wheel of political fortune, retires at the end of this year. We notice, with pleasure, that the leading citizens of Bridgeport, without distinction of party, have tendered him a complimentary dinner, which will be given in January next. Judge Talmadge has the rare quality of endearing himself to those who know him, combined with great judicial ability. We think he is destined to judicial advancement in Connecticut.

EDITORIAL.

CRIMINAL ABORTION AND THE NEW ENGLISH CRIMINAL EVIDENCE ACT.

Case of John Lloyd Whitmarsh.

This was an indictment for criminal abortion on one Alice Bayly. It had been tried previously, at the Central Criminal Court, London, and the jury failed to agree.

The evidence of Dr. Thos Stevenson and of Mr. Bond, the chief medical witness for the Crown, left no doubt as to the guilt of the accused. It was tried before Mr. Justice Bingham and a jury. The jury found the prisoner guilty of wilful murder, but gave a strong recommendation for mercy, and the judge sentenced the prisoner to death.

The justice admitted the dying declarations of the deceased woman Bayly, that attempts had been made upon her to procure an abortion. The judge, in charging the jury as to the offense, said: "If a person, in committing a felonious act, compasses the death of another, he is guilty of murder, unless he could not reasonably infer that death would result as a consequence of the act."

The *London Lancet*, in commenting upon the case, says that, the New law in England was in effect when the case was tried, (October, 1898), but under advice of counsel, the accused did not take the stand, concerning which the counsel for the Crown, Mr. Gill, commented upon as follows: "That the prisoner had not given any explanation, although he had every opportunity of giving one."

The British medical press comment upon the case, and the *London Lancet* approves of Mr. Justice Bingham's charge, and asserts that:

"The new act of Parliment which permits prisoners to give

evidence on oath, will in the main be a help to the innocent, and a pitfall to the guilty; at the same time it is not an unmixed good for it is possible, that juries may view with distrust the presentment of a prisoner's innocence by counsel unless supported by the prisoner's appearance in the witness box. Nor on moral grounds can it be unconditionally approved since obviously it will be a powerful incentive to perjury."

The *British Medical Journal*, in commenting on the same case, says:

"Curiously enough, the trial of Whitmarsh was from another point of view a vindication of the wisdom of Sir Richard Webster and the other law reformers who last session passed the Criminal Evidence Act. In the Whitmarsh case for the first time in the history of English law, a prisoner charged with a capital offence was permitted to go into the witness box, and, like any other witness, give evidence on oath and be cross-examined by counsel for the prosecution. The Criminal Evidence Act was not in operation when Whitmarsh was first tried a month earlier, on which occasion the jury disagreed. It will probably be admitted by every one who heard both trials that the danger of a second disagreement was reduced to a minimum by the prisoner's own evidence and demeanour in the box. The inadequate and highly improbable 'Explanations' which he offered, and his wholesale denials of the well-corroborated testimony against him, coupled with some very damaging admissions, left on the mind the strong conviction that he was an innocent man offering a truthful explanation of compromising circumstances. Before he went into the box there was very little room left for doubt as to his guilt; and whatever hesitation there may have been was prompted by the maxim *Audi alteram partem*. The prisoner's version, having been heard, there was no longer room for doubt."

It is dificult to say what the facts are; as to whether Whitmarsh did or did not give evidence in the second trial on his own behalf in the face of these conflicting statements.

The *British Medical Journal* gives an extract from the charge of Mr. Justice Bingham:

"I tell you as a matter of the law," said his lordship, in his most impressive charge to the jury, "if you are of opinion that he did commit a felony, and that as a result she died, that is murder. It does not matter what his intention was; the law does not stop to ask. He is guilty of murder just as much as if he had taken a knife and stabbed her to the heart.....I do not mean to say there may not be some cases where this rule may possibly be inapplicable, cases where the possibility of death resulting is so remote that no reasonable man, if he thought about it could foresee it. It must be that in such a case a very remotely possible result is quite

a different thing from Sir Richard Webster's act, 'not in itself of necessity dangerous to life.'"

As to the new Criminal Evidence Act, its provisions are of almost universal use in this country, and no serious objections have been urged against this. In New York it applies to civil as well as criminal cases, and is in universal use.

Counsel, courts and juries all must perceive that it is a fruitful field for perjury. It is rare now for counsel to try a case where the evidence of parties are not so directly contradictory, that it is impossible to avoid the conclusion, that one or the other of the parties have given false evidence under oath.

At first thought, this is an apparently strong argument against such a law, and a serious objection to its utility or propriety.

On second thoughts, the object of a trial is to find out the facts, (what is the truth? is the inquiry), and when the jury sees and hears the evidence on both sides, notes the manner and conduct and appearance of witnesses, there is no safer tribunal to reach the actual facts, and pass upon the conflicting statements and contradictions of the evidence. It shortens the trial and narrows the issues, and the liar is more readily detected than would at first be supposed.

In the professional experience of the writer, in the defence of criminal cases, two are recalled, in which persons accused of crime insisted, over the protest of counsel and against his advice, in going upon the stand as witnesses in their own defence. Both were guilty of the offence as charged, as events showed, although each stoutly denied it to counsel. In each case the accused positively denied the leading facts, which were supposed by him to be crucial on the question of guilt, but both broke down and utterly failed on a thorough cross examination, and neither court or jury believed their statements; and their falsehoods as to collateral facts and questions were demonstrated beyond all question by the cross examination, and each thoroughly discredited.

In each case a necessary fact to maintain a conviction had

not been shown by the prosecution, and fearing that this defect would be supplied on cross examination, counsel decided not to put the client on the stand. The result was a conviction in both cases, and an extreme sentence in each case, because the judge believed each had committed perjury.

Only one case is recalled where a prisoner charged with stealing, who boldly swore falsely to a trumped up defence of ownership to the stolen property. This was denied by two disinterested witnesses of good character, on whose action the defence was based. The jury refused to convict, giving the accused the benefit of the doubt, and he escaped a conviction for larceny by the commission of perjury.

The Case of Collins.

Collins was tried for the same offence, in the same court, and was found guilty by the jury.

The cases of Collins and Whitmarsh were very similar. In the former case the counsel for the Crown told the jury, as reported by the *British Medical Journal*,*

> "That if the act which caused the death, although felonious, was 'not in itself necessarily dangerous to life,' it was open to them to bring in a verdict of manslaughter."

In the case of Collins the sentence was for "seven years," and the crime was the same as that of Whitmarsh.

It could not be said that in either case the accused intended to compass the death of the woman. Indeed, it is safe to assume that neither of them either so intended, or that either expected even a fatal result. No allegation of malice aforethought could be even made against either Collins or Whitmarsh.

The English law seems to be defective in defining and classifying this class of offences.

Under the Italian code the maximum code punishment in such a case would be seven years Under the Indian code the maximum is ten years. The Massachusets fixes the maximum at twenty years if the woman die, and seven if she does not.

*Nov. 19, 1898.

The *British Medical Journal*, in its later issue, December 3, 1898, under the heading, "The Law as to Criminal Abortion," comments editorially as follows on the subject:

In dealing with the Collins and Whitmarsh cases in the British Medical Journal of November 19th, the case of Reg. v. Heap, to which our attention has been kindly called by Mr. Lowndes, was inadvertently overlooked. The facts of that case were very similar to those in both the Collins and Whitmarsh cases, with the exception that Heap was an unqualified man. The verdict found by the jury was that of murder, and Heap was sentenced to death and afterwards hanged; this was in 1875. Fortunately for Whitmarsh the Home Secretary at first saw fit to commute the death sentence to penal servitude for life, and has now still further reduced it to that of twelve years' penal servitude.

The modern tendency in cases in which the prisoner has been found guilty of what is popularly known as "constructive" murder seems to be for the Home Secretary to commute the death sentence.

Apart from the present unsettled state of the law, or perhaps, to be more correct, the difference of opinion which exists among the judges as to the way in which they should direct the jury, surely the fact that the prisoner is dependent upon the leniency of the Crown, as exercised by the Home Secretary, to alter the death sentence which the judge has been obliged to pass, is sufficient to show that some legislation is necessary to amend or alter the law in cases of this class.

Before dealing with the inconsistency in the way in which the judges in the cases under discussion have directed the jury, it may be well to dispose of a suggestion which has been made in some quarters that it would have been sufficient to have prosecuted the prisoners for the crime of procuring abortion. The most damning piece of evidence adduced by the prosecution in Whitmarsh's case was the dying declaration of the deceased woman herself, and without this evidence it is possible, nay even probable, that the prosecution would have failed to establish a case against the prisoner. Now, it is perfectly clear that this dying declaration would not have been admissible in evidence against the prisoner, if the charge against him had been only that of procuring abortion, because such evidence is receivable on a charge of felony only when the death of the person making it is the subject of the charge, and the circumstances of the death are the subject of the dying declaration. Therefore, where a prisoner was charged with using instruments to procure the miscarriage of a woman who afterwards died, her dying declaration was held inadmissible on his trial (Reg. v. Hind, 29 L. T. (M. C.), 147).

As the law now stands, there can be little doubt that if a person whilst doing, or attempting to do, another act undesignedly kill a man, the killing is murder if the act intended or attempted were a felony.

With all due respect for the learned judge who presided at the Collins trial and also for the learned Attorney-General, there can be no doubt that according to the strict law as just stated Collins was guilty of murder, and no such alternative course as was suggested by the Attorney-General was really open to the jury. It is not at all free from doubt that even Mr. Justice Bingham did not go too far in suggesting the limitation to which we have referred in our previous issue. It must not be forgotten that Whitmarsh had been previously tried, on which occasion the jury disagreed. This is how Mr. Justice Darling directed the jury:

"It was the law that if a person in the commission of such felony as the act of procuring abortion involved (because to procure an abortion was a felony) did that which killed, he was guilty of murder. This was not a case in which there could be a verdict of manslaughter; there was no contention on the part of the prisoner that any such verdict was permissible."

This summing up embodies what has been stated above to be the strict law, and in truth no other summing up would correctly state it.

It is well to see the view expressed by the late Mr. Justice Stephen, a great authority upon criminal law, on this question. In the case of Reg. v. Serne (16 Cox, 311), Leon Serne and T. Goldfinch were indicted for the murder of a boy, S. Serne, the son of the prisoner, Leon Serne, it being alleged that they wilfully set on fire a house in the Strand, London, by which act the death of the boy had been caused. Mr. Justice Stephen, in summing up to the jury, directed them as follows: ".....It is necessary that I should explain to you, to a certain extent, the law of England with regard to the crime of wilful murder, inasmuch as you have heard something said about constructive murder. Now that phrase has no legal meaning whatever.....The definition of murder is unlawful homicide with malice aforethought; and the words malice aforethought are technical.....The words have been construed according to a long series of decided cases, which have given them meanings different from those which might be supposed. One of these meanings is the killing of another person by an act done with an intent to commit a felony.....If you think that either or both of these men.....killed this boy either by an act done with intent to commit a felony, that is to say, the setting of the house on fire in order to cheat the insurance company.....the prisoners are guilty of wilful murder in the plain meaning of the word.....I will say a word or two upon one part of the definition, because it is capable of being applied very harshly in certain cases, and also because though I take the law as I find it, I very much doubt whether the definition which I have given, although it is the common definition, is not somewhat too wide.....In my opinion the definition of the law which makes it murder to kill by an act done in the commission of a felony might and ought to be narrowed. I think that instead of saying that any act done with intent to commit a felony, and which caused death, amounts to murder, it would be

reasonable to say that any act known to be dangerous to life and likely in itself to cause death, done for the purpose of committing a felony, which caused death, should be murder."

Here we have a clear exposition of what the law is, followed in the next breath by a doubt whether it might and ought not to be narrowed. Is it going too far to assume that the Attorney-General when in the Collins case he used the words "not necessarily dangerous to life" really had in his mind what Mr. Justice Stephen had said the law "might and ought to be?" It is true that the judge in the Collins case accepted Mr. Justice Stephen's view; but all judges will not adopt that course, nor is it right and proper they should do so, their duty being to administer the law as they find it, and not to usurp the functions of the Legislature.

Perhaps a better occasion than the present has never arisen for reform in this direction. The inconsistency of the summings up of the three judges in the Collins and Whitmarsh cases already discussed, the pendency of another case involving a similar issue, the state of public opinion, the view submitted by one of the law officers in the Collins case, the attempt of the prosecution in the Whitmarsh case to whittle down the charge to one of manslaughter have excited general interest, and should simplify the task of reforming the law to a condition more in accordance with common sense.

It seems to us that the proper course to pursue would be to introduce a short Bill dealing with the whole of the class of cases comprised in the term "constructive" murder and not confined merely to cases of criminal abortion. The Bill might be drafted on the lines suggested by Mr. Justice Stephen's summing up in Reg. v. Serne, namely, that any act, not known to be dangerous to life, and not likely in itself to cause death, done for purpose of committing a felony which caused death, should be manslaughter and not murder. Such a Bill, if passed into law, would go far to do away with the present absurdity of trying prisoners for wilful murder in cases where the death of the victim was nether contemplated nor desired, and with the solemu farce of judges having to pass sentence of death in cases where they know it will never be carried out.

The *British Medical Journal* of Dec. 10, 1898, in further discussing this subject, says :

It is worthy of notice that just prior to Dr. Whitmarsh's second trial a similar case was exciting the interest of the public in the antipodes. In September last Dr. Arthur Herbert Orpen of Auckland, New Zealand, was tried in the Supreme Court before Mr. Justice Conolly on a charge of murder. The criminal laws of New Zealand have been codified, and from the report of the trial printed in the Australasian Medical Gazette it would appear that the prisoner was indicted under Section or Clause 163 (4) of Act 56, 1893. The section or clause referred to reads as follows: "Culpable homicide is murder: If the offender for any unlawful object does an act which he knows, or ought to have known, to be likely to

cause death, and thereby kills any person, though he may have desired that his object should be effected without hurting anyone." The prosecution seem to have asked the jury to find the prisoner guilty of murder, but the judge in summing up, told them that, assuming death to have been caused by the accused, in the course of an operation to procure abortion, this did not come within the meaning of the clause under which the charge was laid. The plain meaning of that clause was that the act must be something which was likely to cause death. He then told them that it was competent for them to find a verdict of manslaughter, but the jury acquitted the prisoner. From the clause and the summing up it appears that the Legislature of New Zealand has gone some way towards making that alteration with regard to the law of "constructive" murder which we desire to see made in the English law. At the same time the wording of the clause is not entirely satisfactory, for the phrase "likely to cause death" is too ambiguous, and would lead to juries returning inconsistent verdicts, as the question would have to be left to the jury to determine whether the prisoner knew, or ought to have known, that the particular act would be likely to cause death. The interpretation of the clause would be rendered easier if the words "necessarily dangerous to life" were substituted for "likely to cause death,"

It will interest both the bench and bar on our side of the water to see what the legal view in England is upon this question, The leading article in the *British Medical Journal* is from a legal rather than a medical source, and is all the more interesting, coming as it does from a medical journal of this character and influence among English medical men.

The whole subject will arrest the attention of our criminal lawyers and legislators.

By the Common Law, if the abortion was secured with the consent of the mother, and the child had not quickened, it was not a crime. Indeed, by the Common Law, the procuring of an abortion was not a felony if the child had quickened.

In the case of Mitchell v. Commonwealth, reported in 78th Kentucky 204, Hines, Justice, in delivering the opinion of the court upon such a case said :

"After a patient investigation we are forced to the conclusion that it never was a punishable offence at common law to produce with the consent of the mother, an abortion prior to the time when the mother became quickened with child.

It was not even murder at common law to take the life of the child at any period of gestation even in the very act of delivery."

Vide S. C. 39 A. M. Rep. 227; Com. v. Bangs, 9 Mass. 387; Com.

v. Parker, 9 Metc. (Mass.) 387; Com. v. Parker 9 Metc. (Mass.) 263; S. C. 43 A. M. Dec. 396; Smith vs. State 33 M. E. 48; State v. Cooper, 22 N. J. L. 52; S. C. 51 A. M. D. E. C. 248; State v. Slagell, 82 N. Carr. 653; People v. Sessions, 36 N. W. R. E. P. (Mich.) 291; Ann v. State, 11 Humph. (Tenn.) 159; Abrams v. State, 3 Iowa 274; S. C. 66 A. M. Dec. 77; Hatfield v. Gayno, 15th Iowa 178.

A contrary view seems to have been followed by the Pennsylvania Supreme Court in the case of Mills v. Com., 13 Pa. St. 633; Com. v. Domain, 6 P. A. L. Jour. 29.

By the Common Law, when, in the consequence of the means used to secure an abortion, the death of the woman ensues, it is murder; but by statute in many of the American states, this has been made manslaughter, and courts have held that the giving of any drug, noxious thing, or other matter or substance, or the use of any instrument calculated to produce miscarriage, whether the object be obtained or not, if miscarriage be the intention, the crime is complete, and the courts have held that the use of drugs or instruments, with the specific intent to produce an abortion, imply malice aforethought.

State v. Thurman, 66 Iowa 693; State v. Owens, 22 Minn. 238; State v. Gedicke, 43 N. J. L. 86, (where defendant prescribed Dr. Clark's female periodical pills); R. v. Hollis, 12 Cox, C. R. C. A. S. 463; R. v. Hennah, 13 Cox C. C. 548.

The criminal code in the state of New York has defined the crime of murder and manslaughter, and has settled some of the questions, about which our English cousins are considering, by statute.

The following are the sections of the New York Criminal Code bearing upon the subject:

§179. HOMICIDE DEFINED.—Homicide is the killing of one human being by the act, procurement or omission of another.

§180. DIFFERENT KINDS OF HOMICIDE.—Homicide is either

1. Murder;
2. Manslaughter;
3. Excusable homicide; or,
4. Justifiable homicide.

§181. (Amended 1882). WHAT PROOF OF DEATH IS REQUIRED.—No person can be convicted of murder or manslaughter unless the death of the person alleged to have been killed and the fact of killing by the defendant, as alleged, are each established as independent facts; the former by direct proof and the latter beyond a reasonable doubt.

§182. COMMON-LAW PETIT TREASON IS HOMICIDE.—The

rules of the common law, distinguishing the killing of a master by his servant, and of a husband by his wife, as petit treason, are abolished; and those homicides are punishable or excusable, as prescribed by this Code.

§183. (Amended 1882). MURDER IN FIRST DEGREE DEFINED.—The killing of a human being, unless it is excusable or justifiable, is murder in the first degree when committed, either

From a deliberate and premeditated design to effect the death of a person killed, or another; or,

By an act imminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual; or without a design to effect death, by a person engaged in the commission of, or in an attempt to commit a felony, either upon or affecting the person killed or otherwise; or,

When perpetrated in committing the crime of arson in the first degree.*

§184. MURDER SECOND DEGREE.—Such killing of a human being is murder in the second degree, when committed with a design to effect the death of the person killed, or of another, but without deliberation and premeditation.

§185. DUEL FOUGHT OUT OF THIS STATE.—A person who, by previous appointment made within the state, fights a duel without the state, and in so doing inflicts a wound upon his antagonist, whereof the person injured dies; or who engages or participates in such a duel, as a second or assistant to either party, is guilty of murder in the second degree, and may be indicted, tried and convicted in any county of this state.

§186. PUNISHMENT OF MURDER IN FIRST DEGREE.—Murder in the first degree is punishable by death.

§187. MURDER IN SECOND DEGREE; HOW PUNISHED.—Murder in the second degree is punishable by imprisonment for the offender's natural life.

§188. MANSLAUGHTER DEFINED.—In a case other than one of those specified in sections one hundred and eighty-three, one hundred and eighty-four and one hundred and eighty-five, homicide not being justifiable or excusable, is manslaughter.

§189. MANSLAUGHTER IN THE FIRST DEGREE.—Such homicide is manslaughter in the first degree, when committed without a design to effect death, either.

1. By a person engaged in committing, or attempting to commit, a misdemeanor, affecting the person or property, either of the person killed, or of another; or,

2. In the heat of passion, but in a cruel and unusual manner or by means of a dangerous weapon.

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* It was held, in Darry v. People, 10 N. Y. Rep., 120, that a killing without premeditated design to take life, though perpetrated by such acts as are eminently dangerous to the person killed, is not murder.

Intent is not necessary to be shown when party is engaged in a felony. Buel v. People, 18 Hun. 487; 78 N. Y. 492; Cox v. People, 19 Hun. 430; 80 N. Y. 100; Rnloff v. People, 45 N. Y. 213; 5 Laws (N. Y.) 261.

§190. KILLING UNBORN QUICK CHILD.—The willful killing of an unborn quick child, by any injury committed upon the person of the mother of such child, is manslaughter in the first degree.

§191. KILLING UNBORN QUICK CHILD BY ADMINISTERING DRUGS, ETC.—A person who provides supplies, or administers to a woman whether pregnant or not, or who prescribes for, or advises, or procures a woman to take any medicine, drug or substance, or who uses or employs, or causes to be used or employed, any instrument or othermeans, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case the death of the woman, or of any quick child of which she is pregnant, is thereby produced, is guilty of manslaughter in the first degree.

§192. MANSLAUGHTER IN FIRST DEGREE; HOW PUNISHED. Manslaughter in the first degree is punishable by imprisonment for not less than five nor more than twenty years.

§193. MANSLAUGHTER IN SECOND DEGREE.—Such homicide is manslaughter in the second degree, when committed without a design to effect death, either

1. By a person committing or attempting to commit a trespass or other invasion of a private right, either of the person killed or of another, not amounting to a crime; or,

2. In the heat of passion, but not by a deadly weapon or by the use of means either cruel or unusual; or,

3. By an act, procurement or culpable negligence of any person, which according to the provisions of this chapter, does not constitute the crime of murder in the first or second degrees, nor manslaughter in the first degree.

§194. WOMEN TAKING DRUGS, ETC.—A woman quick with child, who takes or uses, or submits to the use of any drug, medicine, or substance, or any instrument or other means with intent to produce her own miscarriage, unless the same is necessary to preserve her own life, or that of the child whereof she is pregnant, if the death of such child is thereby produced, is guilty of manslaughter in the second degree.

§200. LIABILITY OF PHYSICIANS.—A physician or surgeon or person practicing as such, who, being in a state of intoxication without a design to effect death, administers a poisonous drug or medicine, or does any other act as a physician or surgeon, to another person, which produces the death of the latter, is guilty of manslaughter in the second degree.

§202. PUNISHMENT OF MANSLAUGHTER IN THE SECOND DEGREE.—Manslaughter in the second degree is punishable by imprisonment for not less than one year, nor more than fifteen years, or by a fine of not more than one thousand dollars, or by both.

CHRISTIAN SCIENCE AND THE LAW IN ENGLAND.

James Cook and Grace Cook, husband and wife, were tried at the London Central Criminal Court, before Mr. Justice Bingham and a jury, on October 16, 1898, on an indictment for manslaughter of their child, a girl aged twenty months.

She was taken ill with whooping cough, but no medical man was called in. An elder of the sect of the Peculiar People was called in to pray over the child and to annoint it with oil. The child died. Medical evidence was to the effect that if the child had received medical attention its life would have been prolonged, and it would in all probability have lived. The prosecution contended that in consequence of the neglect of the parents' duty to call a medical man to attend the child its death was accelerated; and that they were therefore guilty of manslaughter. The defendants were tried upon the charge at the last session, but the jury were unable to agree. The male defendant gave evidence saying that he and his wife trusted in the Lord, and was proceeding to give a religious address when he was stopped by the judge.

The judge having summed up, the jury eventually found both defendants guilty.

The judge, addressing the defendants, impressed upon them their duty to consider carefully whether they were following a right course in neglecting those worldly means which God had provided. They should remember that He intended man to use the assistance which science and skill undoubtedly afforded. Taking into consideration his belief that they, though they were acting rightly, though in reality they were acting wrongly, breaking the law, and neglecting the common dictates of human nature, the judge said that he would discharge them upon their own recognisances to come up for judgment at some future time if called upon to do so.

The prosecuting counsel, Mr. Guy Stephenson, said that the child of a witness named Gentry, one of the Peculiar People, who had given evidence was now suffering from diphtheria, and Mr. Justice Bingham observed that he wished it to be understood that from the lenient course he had taken in this case no one was to suppose that he was at all likely in future to escape proper punishment for an offence such as this.

This is the first conviction we have noticed for acts which are everywhere practiced by the adherents of Christian Science, who are acting from the standpoint of what they conscientiously believe is a religious conviction.

THE CASE OF DR. JOHN A. CAMPBELL.

The sad case of Dr. Campbell has created a profound sensation throughout the British Islands.

Dr. Campbell had been Superintendent of the Carlisle Lunatic Asylum for more than a quarter of a century.

He was tried November 14, 1897, at the Carlisle assizes, before Mr. Justice Phillmon and a jury, on a charge of improper intimacy with one of the patients, on August 11, 1898.

Dr. Campbell had resigned his position on June 27, 1898, to take effect August 31, and the board had accepted his resignation, and reccommended him as Honorary Physician to the Asylum, but voted him a pension of £700 a year. The offence was charged to have been committed on August 11, 1898. The defence was insanity. The case excited profound interest. The following eminent alienists testified as to his mental condition, and pronounced him insane and irresponsible: Conolly Norman, F. R. C. P. I., F. R. C. S. I., Med. Supt. Richmond Asylum, Dublin; George Isles Swanson, M. D., Med. Supt. of Laurence House, York; Murdoch Donald Macleod, Med. Supt. East Riding of Yorkshire Asylum, Beverly; Samuel Rutherford Macphail, M. D., Med. Supt. of Derby Borough Asylum, and formerly Assistant of Dr. Campbell at Garlands; Henry Rayner, M. D., Ex-Supt. and Lecturer on Psycho. Medicine at St. Thomas Hospital, London; T. S. Clouston, M. D., F. R. C. P., Edin. Supt. of the Royal Asylum at Morningside Asylum, Edinburgh; David Yellowlees, M. D., Physician Royal Asylum, Glasgow; Sir John Batty Tuke, M. D., D. Sc., President Royal College of Physicians, Edinburgh, and strong corroborative evidence, as to facts in his conduct, showing his insanity, was given by Mr. G. A. Lightfoot, a solicitor at Carlisle; Philip Hair, M. D., of Carlisle; Maxwell Ogilby-Ramsay, M. D., F. R. C. S., Edin., of Carlisle; Mr. David Brown, and Mr. Bell, of Carlisle.

The judge charged the jury as follows, as reported in the *British Medical Journal*, of November 12, 1898:

The first question they had to consider was whether the accused actually committed the serious offence with which he was charged. If they arrived at the conclusion that he had, then they would have to consider whether he was mad at the time, or not. The true test in these cases was: Was the prisoner sane enough to know, the nature and quality of his act—was he sane enough to know that the thing he was doing was wrong? In this case, if he might say so, they had had almost a feast of intellect—great men who had come there to give very clearly and candidly their opinion on the most difficult of all questions. Those opinions differed, but if they came to think it over there were certainly things which were reasonably clear. It was for instance, reasonably clear that on some days the prisoner was beside himself and was for some hours not responsible, but it was equally obvious that at many other times since the days to which the witness for the defence spoke he was perfectly sane and sensible. One of his worst times was at Edinburgh, on July 20th, and following days, yet on the 25th he attended a meeting of his committee and not only transacted the ordinary business rationally, but made a very excellent speech of thanks, always a very difficult thing to do. The jury had heard the evidence of Dr. Farquharson, who was constantly seeing him, that he was always sane, and his conduct on the days following the alleged assault, so far as they heard, appeared to be rational. His lordship having commented on the fact that no one had been called by Mr. Shee to prove the state of the prisoner's condition on the afternoon of August 11th, was of great importance. But while those doctors said he was perfectly sober when they saw him, they had evidence that at the asylum, two hours later, he was very drunk. It seemed obvious that the man's condition was getting worse and worse, and that if he went on drinking he would become hopelessly insane. The question was whether he had reached that stage on August 11th. His lordship dwelt on the strange condition of things in the asylum. Here was a man who was said to have showed signs of madness months and years before, yet who was allowed to go on without report and without observation in this place as superintendent. It was almost grotesque to think that a doctor, who was himself declared to be insane, should come into the court at the last assizes and give evidence as to the sanity of a man who was on his trial for murder It would certainly be strange if the prisoner had been insane over all the period to which the witness spoke. Was the truth not as stated by Dr. Yellowlees, that there were periods of time when there were lucid moments? If that view was correct, was the prisoner insane or in a lucid moment on August 11th.

The jury, after being absent from the court for a quarter of an hour, returned a verdict of guilty, but insane.

The learned judge ordered the prisoner to be detained during Her Majesty's pleasure.

The *British Medical Journal*, in commenting on the case, says:

The judge summed up the case carefully and impartially, but did not venture to depart from the old and unscientific English precedent that knowledge of right and wrong is the test of legal responsibility. Philosophy and psychology have propounded that man's mind has the three great coequal faculties of feeling, knowing, and willing, and that the greatest of these is the will power. Modern physiology and pathology teach emphatically that brain disease may and does affect the affective, the controlling, and the inhibitory faculties of the mind as well as the cognitive. Yet science cries to deaf legal ears in England on this point. Germany, France and America have reformed their laws on this point. England alone refuses to follow the lead of modern science. To obtain a righteous decision in such cases as Dr. Campbell's, a change in judicial procedure is needed, so that opportunity may be afforded for scientific testing of responsibility, and for an exhaustive examination of the mental state of the accused and his recent mental history by impartial and skilled medical men, who could say definitely whether disease existed or not? Then proper arrangements should be made for the submission of their evidence to the courts.

The *London Lancet* in commenting upon the case, says:

No one who has seen much of Dr. Campbell of late years when he was away from his asylum work will be surprised that he has landed himself in serious trouble. Drink cannot be indulged in without some amount of deterioration of brain and of mental capacity, and the earliest breaking down is sure to take place in those higher controlling centres which enables a man when at his best to subordinate his passions and those grosser weaknesses which, when they become actively dominant, prove that he is not in his right or normal mind. The eminent authorities who gave evidence of Dr. Campbell's insane condition of mind are above suspicion of swearing beyond the mark even to assist an old fellow-worker in his hour of trouble, and there can be no doubt that his criminal act was the outcome of a brain deranged by persistent alcoholism. Indeed, to us it would appear that the act itself, committed upon such a person and in such surroundings, was characterized by an indiscriminate vigor that points not to mere intoxication or alcoholism, but to an active wave of diseased mental aberration. There are those possibly who without looking closely into the circumstances of the case may say that Dr. Campbell was fortunate in being found insane, yet these would have been among the first to have declared that an imprisonment for two years would, when all considerations were taken into account, have been a wrongful sentence. Few indeed will envy his enforced seclusion as a criminal lunatic. The case is not without its lessons and its warnings to those who give themselves to drink.

There can be little doubt of the insanity of Dr. Campbell. The very strong preponderance of medical testimony points

unerringly to this conclusion. We do not underrate the value of Dr. Farquarson's evidence. We do not regard this like the usual cases of differences in medical expert testimony. Dr. Farquarson had not for a moment conceived or considered the question of insanity in his case. It is quite safe to assume that he did not on any occasion have that subject in view when considering him. He was ignorant of the leading facts and incidents which determined the eminent men called by the defence. It should not discredit Dr. Farquarson. For example, take the case of the young lunatic, permitted to apply for and pass a medical examination for a degree, who successfully accomplished it without one member of the faculty suspecting his insanity. They were not looking for that. Their attention was not drawn to it. Their not observing the mental condition would not make their evidence of value, if any of them should swear they believed the young man sane. Dr. Farquarson is a perfectly competent man to examine any given case and testify. He doubtless never properly examined or considered Dr. Campbell's case from the correct and actual standpoint of the mind as it then stood. The insane frequently show great skill in avoiding suspicion, even when they know they are watched.

All the surroundings of this case point to the mental derangement of Dr. Campbell.

THE SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

The December number of the MEDICO LEGAL JOURNAL will contain nearly all, and if possible all, of the contributions to the Fifth Series of Vol. I of this work for the State of Connecticut.

The historical sketch will be from the pen of Judge Simeon E. Baldwin, of the Supreme Bench of that state. Among the contributions to the historical sketch of Connecticut, will be contributions by Chief Justice Chas. B. Andrews, of that bench,

the late Judge Elisha Carpenter, the late David Dudley Field, and others.

The illustrations are portraits of the judges composing the present court, and historical sketches of a large number of the Chief Justices, of the Associate Justices, and of the earlier judges in Revolutionary and colonial days. The editor of this Journal will feel greatly obliged to members of the bench and bar, of any of the New England States, for data to enrich this collection, and for portraits of the colonial judges or governors, who at one time acted as judges in Connecticut. He is under obligation already, besides the members of the present bench, to Judges Elisha Carpenter, Dwight Loomis, A. M. Tallmadge, ———— Wheeler, Samuel O. Prentice, Jas. P. Andrews, of Hartford; John C. Averill, Clerk of the Court; Mrs. Caroline J. Taylor, Rev. S. O. Seymour, of Litchfield; Roger Foster, of the New York Bar, and many others.

RHODE ISLAND.—The matter for the historical sketch of this State is substantially collected, and will probably appear in the next number of this JOURNAL. The editor is under obligations to every member of the present court, to ex Chief Justice Thomas Durfee, to Mr. Samuel Ames, of Providence, son of ex-Chief Justice Ames, to Hon. W. P. Sheffield, of Newport, and others.

MINNESOTA.—We hope to have ready the State of Minnesota for the March number of this JOURNAL, and we ask for further assistance from the bench and bar of that state.

NEW HAMPSHIRE.—The death of the late Chief Justice Doe, and the later death of his successor, Mr. Chief Justice Carpenter has delayed the completion of the State of New Hampshire. The historical sketch of the court in that state will be from the pen of Mr. Albert S. Batchellor, of Littleton, of the New Hampshire Bar, and Hon. Joseph W. Fellows, of Manchester, will aid in the sketches of the judges of that state

MASSACHUSETTS.—While the historical sketch of the state has been completed by Mr. Horace Gray, of the Boston Bar, we are not yet able to present the portraits or sketches of its

early bench in a suitable and proper form with what is due to Massachusetts. We especially need more portraits of her earlier judges, and we shall feel grateful to the bench and bar of Massachusetts if we can have further aid in this respect.

BELGIAN SOCIETY OF MENTAL MEDICINE.

This society has published in the March number of the Bulletin of the body, a complete list of its active, associate and honorary members. Its active list contains 90 names; its associate members list contains 19 names, and its honorary list 93 names. In the latter list are contained 8 American names, 4 Austrian, 11 Belgian, 6 British, 19 French, 6 German, 14 Hollandish, 9 Italian, 5 Russian.

The officers of the society for 1898 are: President, Dr. Vanandenæren, Superintendent Asylum for Insane at Tirlemont; Vice-President, Dr. de Boeck, Chief Physician Department of the Insane, Hospital St. Jean, Brussels; Secretary, Dr. Villers, Assistant Physician Department of the Insane, Hospital St. Jean, Brussels; Assistant Secretary, Dr. Leon de Rode, Medical Superintendent Asylum for the Insane, Louvain, Belgium; Treasurer and Librarian, Dr. Sarolea, Medical Superintendent Asylum for the Insane, Ghent, Belgium.

THE ENGLISH HOME OFFICE AND PUBLIC SENTIMENT IN AMERICA AND GREAT BRITAIN.

Mr. Heathcote Hardinge, an earnest and gifted English writer, of Ravenscourt Park, London, publishes an open letter in the *Blackpool Times*, making a strong case against Sir Matthew Ridley, the present Home Secretary for England. Sir Matthew represents Blackpool in the English House of Commons, and the two column article, in one of the most influential journals in his district, cannot be wholly ignored by her

majesty's representative, who is vested, under the English system, with the full pardoning power of the Throne.

We regret that we are not able to give the entire article, for want of space in our columns, but we are glad to see an Englishman state the case so strongly as he does, and we feel sure that he reflects, to a large extent, the public sentiment of a very large class of intelligent and thoughtful minds in Great Britain.

He opens with a strong and graceful tribute to the late Prince Consort, for his love of truth and justice, his fearlessness in investigation, and his love for "truth" in the abstract, and Mr. Hardinge applied this to the case at Bar with great force.

Mr. Hardinge, in commenting on the trial and conviction of Mrs. Maybrick, says:

The late Prince, who was a thoughtful and an earnest man would have grappled with this scientific case, which justice demands should be justly solved. He knew and admitted that "Science is eminently practical, and must be so, as she sees and knows what she is doing, while mere common practice is condemned to work in the dark." He would have seen that every man who gave an adverse decision against the prisoner did so because he was not a practical scientist or was not in a postion to publish his reasons for the condemnation of the woman, while the incontrovertible reasons of the advocates for her release either had been published or permission had been given to the Home Secretary to publish them. This therefore is a double testimony of great weight in favour of release because when statements (or arguments) publicly known remain unrefuted, and when the advocates for release, some of whom are scientists, have challenged the advocates of punishment to justify the prolonged, and consequently outrageous, cruelty of her punishment for crimes charged against her, which have never been publicly and satisfactorily proved, an appeal may fairly be made to these circumstances as confirmatory testimony on the part of those who knew that "guilt" has not been properly proved, that release by "a free pardon" should be granted. The Judge in this case told the jury that "It is essential to this charge that the man died of arsenic. This question must be the foundation of a verdict unfavourable to the prisoner that he died of arsenic." The intelligent public all over the world who have studied this case have admitted that the Home Secretary in 1889 was correct in saying that there was "a reasonable doubt" whether the man "died of arsenic," and that the Judge who tried the case was right in saying (after he had retired into private life) "that it was the only case in which there could be any doubt about the facts," out of the many cases

he alluded to. The late Prince would have seen the injustice involved in the continued persecution of the prisoner, and he would not, I am perfectly convinced, have condemned her as

SHE HAS BEEN CONDEMNED,

but. like his Saviour, would have said, "Go, and sin no more." He, with his large heart and just mind, would not only have had mercy on the woman, but he would have had compassion on the many thousands in this country and in the United States who (in the words used by Sir Matthew White Ridley in the House of Commons on July 29th, 1898, when speaking of this prisoner) are "aware of the strong opinions held, not only in America, but in this country, not only as to her innocence, but also as to her having been adequately punished." He would have seen that as there was no evidence produced at the trial of this American having, in any way, injured her husband, that she has actually suffered more than three times the sentence of penal servitude passed on other prisoners proved guilty of similar charges.

The investigations made by entirely competent persons, show, beyond all reasonable doubt,

1. That Mr. Maybrick did not die from poisoning at all.

2. The post mortem shows, that not enough arsenic was found in the body to warrant a conclusion that the death was due to poison.

3. It is not a case where a reasonable doubt can now be entertained upon this view, and it is clear now, beyond a reasonable doubt, that the dicta of the trial judge, "It is essential to this charge that the man died of arsenic," should be followed by the discharge of the prisoner.

4. The action of a former Home Secretary, in commuting the extreme sentence of death, was based on the assertion, that "there was then a reasonable doubt whether the man died of arsenic," and this has now ripened into a public, well-settled conviction, on both sides the Atlantic, that the condemned woman is absolutely innocent of the crime for which she was tried and indicted.

Mr. Heathcote Hardinge, in commenting upon the fact that the Lord Chief Justice of England shares this view, as to her innocence, and has most strongly interceded officially by virtue of his high official position, as Lord Chief Justice, which, under English law, gives him, after the death of the judge who tried the prisoner, constitutional rights upon the case, says:

By the law of England after the death of the trial Judge, the Lord Chief Justice of England has, I am informed on excellent authority, a constitutional function with reference to this American prisoner, so explicit and well defined that should he, as the head of the criminal justiciary of England, exercise his judicial powers to prevent justice being further abused, neither the Home secretary nor anyone else can produce a higher warrant to stop him taking such steps as may appear to him to be necessary for that object. It has been said that the incontrovertible reasons given by the Lord Chief Justice of England for his strong opinion "that the prisoner ought to be released," were only given to Sir M. W. Ridley as the opinion of a private individual. This view is not correct, his lordship's reasons and his opinion having been given as head of the criminal justiciary of England, and should have been published accordingly. What folly for anyone to think for a moment that the legal opinions of the Lord Chief Justice are of less real value if given privately than officially! Had they been given in his private capacity, which they were not, their legal weight and importance should have been the more valued by the Home Office authorities. The Lord Chief Justice is bound by the law of England to see that prisoners are not persecuted (whether any of them have, in former days, been his clients or not). It is no longer a question of the prisoner's guilt, as she has already served, as before stated, a term of penal servitude more than three times that of other prisoners.

The belief in the innocence of the accused pervades all classes among the American people, and the expressions of sympathy have been extended through officials and private sources. The President of the United States believes in her innocence, and went so far, in the largeness of his heart, as to instruct our then minister, Col. Hay, to ask for her release as an act of international comity, after she had endured a sentence of more than nine years.

Mr. Hardinge, in alluding to this incident, says :

Moreover, the President and people of the United States have asked for her release, not on account of her innocence, nor on account "of her having been adequately punished," as suggested by the Home Secretary, but as an act of

INTERNATIONAL COMITY

and proof of good will towards a great and friendly nation, and from that moment the prisoner became a household topic, the questions asked being, "Why is she still in penal servitude?" "Who is it that is so prejudiced against her?" "Who is it that insists on her further punishment, and refuses that international courtesy which England as a nation so much desires?" What did Colonel Hay, the late American ambassador, refer to, when at the banquet at the

Hotel Cecil on the 4th of July last, he said: "For many reasons this year will be memorable, for none more than the lucid recognition by both American and British people of the fact of reversing the old text—the way of pleasantness between us is the way of wisdom. (Cheers.) And anything like variance is mere folly and madness. (Loud cheers.) . . . And now that this cordial and clear understanding has come, which so many of us have hoped and waited for, is there any reason why it should not last forever?" (Loud and prolonged cheering.) Considering that one of the first an last requests of Colonel Hay as Ambassador in this country was to ask for the prisoner's release, there is no difficulty in "reading between the lines" of his speech as quoted above, for so long as this American citizen is suffering penal servitude for unproved charges made against her, "the ways of pleasantness" cannot be so bright or so smooth as it will be if her release be cordially granted in compliance with Mr. McKinley's last request. Now is the time to show "good will" to our American cousins in the way indicated by the President, and by the present United States Secretary of State. There is no sound reason why this suggestion should not at once be adopted, because the prisoner has from the first recognized the necessity of "good conduct" on her part, and she has expressed to visitors and others her great desire to give as little trouble as possible, and her efforts to comply with the rules. Her conduct is known to have been good. Who is it then who pursues this woman in England in such a

SILENTLY CRUEL WAY

against her being granted that free pardon which the whole world who has studied her case admits she ought to have received in 1889? There is but one answer to the foregoing questions, viz., "the enemies of justice, who are the enemies of England," for they see that so long as this poor victim remains in prison there is less difficulty in preventing that alliance between the United States and England Neither confidence nor respect can be secured when punishment becomes excessive, for it then becomes an act of persecution, suitable only for the ages of darkness, and a disgrace and a scandal unbearable in the present day. No exalted mind like that of the late Prince Consort would, for a moment, approve of such low and cruel resentment, or sanction the display of such anger towards one who only asks to be allowed to prove her innocence.

"The Times" admits that the want of a Court of Criminal Appeal is nothing less than "a calamity" in her terribly sad case Other papers were written strongly in her favour because of the growing scandal caused by her contnued punishment. The supineness of Parliament in not directing that this scandal should be "ended" does not redound to the honour of England as a proof of her love for justice, or of a willing and kindly mind towards our friends in the United States. On both sides of the water the death of the late Prince Consort is therefore considered to be a serious loss to both nations, not only on account of his humanity but on account of his

scientific knowledge, his "personal search after truth," his "candid disposition," and "hearty desire to judge fairly." There is, however, one still spared to us to whom we can go notwithstanding that there is no Court of Criminal Appeal nor a Prince Consort, with his large perceptive powers, enabling him to see and to know what course justice would at this moment take We have our gracious Queen, the beloved of that justice-loving Prince, who would have pointed out to her the vital mistakes made at the prisoner's trial, together with the further facts to which I have already alluded, and Her Majesty would have been convinced by the forcible and incontrovertible reasons which her Royal Consort would have advanced for "a free pardon," and there would have been cause for great rejoicing to the English-speaking people who had studied her case, all over the world Unfortunately the case, as I have now roughly stated it, has never been presented to our beloved Queen and Empress But let it thus be presented and Her Majesty will, I firmly believe, silence forever the cause for further scandal on the subject, by directing that the prisoner be released, as an act of grace and good-will on the part of England towards the United States.

Whatever may be said of the merits or demerits of the English system in such cases, it is a fact, that under English law no appeal lies from the verdict of the jury as in our country.

Were it otherwise there, and did an appeal lie, there is no doubt whatever of the reversal of the verdict, as the jury refused the prisoner the benefit of the same doubt on which the Home Secretary commuted the sentence, and in England, as here, it is the duty of the trial judge to charge the jury not to convict if any doubt exists as to her guilt.

No remedy is open to this unfortunate but the pardon of the Queen. This, in England, is only done on the reccommendation of the Home Secretary.

It is doubtful if the Queen has ever heard of, and quite certain she has not considered the case.

The large fortune of the condemned has been taken from her by the brothers of the husband. They are in possession of it now, and she is penniless. They have more influence with the Home Office than the thousands of friends of this unfortunate languishing, though innocent, now nearly ten years in an English prison, which, to a woman tenderly nurtured, and reared as she was, is in many ways worse than the agony of death itself.

The case is, in many aspects, as sad as that of Dreyfus; while many believe him innocent, scarcely any one now believes that Mr. Maybrick died from poison she administered to him.

There has been the same disregard of public and private demands in her case, on the part of the English Home Secretary.

The strongest appeals: from the Lord Chief Justice of England; from the President of the United States; from thousands of American women, in behalf of their country-woman; from all classes and conditions of those who love justice, have been disregarded and ignored. There is in England no Court of Cassation over the Home Secretary. He is responsible to no one save God and the public conscience, and while it is said his sympathies are with Mrs. Maybrick, he lacks the courage to release her.

It is a serious stumbling block, at this time in America, that the request of the President of the United States, asking for the release of this American citizen, as an act of international comity, after her long and terrible imprisonment, which is now unparalled, as we understand, with any woman in an English prison, has been refused, without explanation, or any assigned reason, and it is most unfortunate that this source of irritation now exists, when all hearts are seeking for stronger and nearer ties of fraternal sympathy and good will.

RESPONSIBILITY FOR CONSEQUENCES OF AN ACCIDENTAL INJURY.

The Medico Legal Society of France, at the meeting of February 14, 1898, considered the following question: "Is the Author of an Accident Responsible or not for the Complications Consequent upon that Accident?"

Mr. Floquet would like to have the Society give an opinion as to the fact whether in accidents, complications such as death and infirmity, which are not direct and natural consequences of the accident, involve the responsibility of its author.

In order to make his question more comprehensible, the speaker classifies them in three different categories:

1. A diabetic is knocked down by a bicyclist; the wound produced by the fall develops into gangrene; the leg is amputated and death follows; is the author of the accident responsible for this death?

2. A person, while being nursed for a fracture of his leg caused by another person, gets the pneumonia and dies of it; in what degree is the responsibility of the author of the accident involved in his death?

3. The victim of an accident caused by a third person remains a cripple on account of neglected or ill advised treatment; is the third person, the author of the accident, responsible for the mistake or incompetence of the physician?

Mr. Picque thinks that the author of an accident should be held responsible only for the direct and natural consequences of the accident. In the first category proposed by Mr. Floquet, death is the natural outcome of the accident, just as if in the case of a cancerous patient, who is lingering in a sufficiently satisfactory condition, the cancer, after traumatism, imputable to a third person, becomes aggravated and brings about the death of the patient in a few days.

As for the consequences more or less hypothetically connected with the accident, they must be left out of consideration.

What concerns the result of an incompetent treatment, the question involves directly medical responsibility, on which we cannot express any opinion, even with certain reservations, unless the case is clearly specified and all necessary informations are gathered.

Mr. Descouts reports a fact in order to prove that the insurance companies are wrong when they try, as they often do, to hold the physician responsible for the infirmities resulting from an accidental traumatism. The practitioner is sometimes confronted with difficulties such as to render it hard for an expert to affirm, either as to the exact diagnosis of the wound or in

the application of the treatment, that the infirmity is the outcome of an irrational or neglected treatment.

Mr. Constant said that if on the question of strict right the author of an accident is liable to be held responsible for all the consequences of that accident, practice and experience have somewhat tempered the rule, and the courts in fixing the quantity of the damages take into consideration the constitutional condition and the social standing of the victim.

[Translated from March de Archives D' Anthropologie Criminelle de Criminologie, by Arthur Courbalk.]

N. Y. STATE ASSOCIATION OF RAILWAY SURGEONS.

At the annual meeting of the Association held in the City of New York last November, the following officers were elected:

President—Theodore Mills, M. D., of Middletown, N. Y.

1st Vice President—J. L. Eddy, M. D., of Olean.

2nd Vice-President—Geo. N. Hall, of Binghampton.

Secretary—C. B. Herrick, M. D., of Troy.

Treasurer—H. B. Jack, M. D., of Canisteo.

We regret that we are unable to give a full record of the proceedings.

LAW STUDENTS ORGANIZE.

The students of the Senior Class of '99, of the Chattanooga Law School, Law Department of the U. S. Grant University, of Chattanooga, Tenn., have organized a Parliamentary Society, adopting Farr's Parliamentary Law in the Constitution.

The Society meets every Friday evening in the lecture rooms of the Law School.

This Society is destined to be one of the leading features of the school.

The officers elected for the ensuing term are:

H. Wupperman, President. Mrs. H. Wupperman, Cor. Sec.

Miss Mamie McHan, 1st V.-P. J. W. Frazier, Treasurer.
Benj. W. Beck, 2nd V.-Prest. H. A. Blackburn, Sergt.-at-Ar.
O. L. Tichenor, 3rd V.-Prest. N. H. Headrick, Critic.
Bruce Forshee, Secretary.

SOCIETY OF THE MEDICAL OFFICIALS OF PRUSSIA.

The fifteenth annual meeting was held at the Savoy Hotel in Berlin on September 26th and 27th, 1898.

The opening address was delivered by the President, Dr. Rapmund, followed by reports of the Treasurer and the Business Managers and election of new treasury and business officials.

FIRST DAY.

1. Fever of the newly delivered women contracted by the infection of Midwives. By Dr. Weichardt, of Altenburg.

2. On disinfection of the hands, specially in the practice of midwives. By Dr. Ahlfeld, of Marburg.

3. The experiment of serum in cases of abdominal typhus, and its importance at the point of view of the Sanitary Administration. By Dr. Mewius, of Cosel, O. S.

4. On duodenal ankylostama. By Dr. Tenholt, of Bochum.

5. On the transmission of pemphigus of the newly-born; and poisoning by kolchizin, in using the drop proceeding of Dr. Mylius' compound liquor of colchici. By Dr. Kornalewsky, of Allenstein.

SECOND DAY.

1. The inspection of the apothecary trade. By Dr. Deneke, of Stralmund.

2. The supervision of patients suffering of mental diseases or mental weakness, who are not taken to the insane or other asylums. By Dr. Oebbecke, of Bitterfeld.

3. Report of the financial inspectors and election of the presidency.

4. On a phenomenon produced by burning. By Prof. Dr. Strassman, of Berlin.

5. Alteration of the substance of nerves in cases of starvation. By Dr. Placzek, specialist for nervous diseases.

TRANSACTIONS.

OPENING FALL MEETING, October 19, 1898.

The Medico Legal Society met at dinner at the Hotel Marlborough, the President, S. B. W. McLeod, in the chair. Clark Bell and Caroline J. Taylor, Secretaries, present.

The minutes of the June meeting were read and approved.

On recommendation of the Executive Committee, the following persons were elected to membership:

ACTIVE.—Proposed by Clark Bell, Esq.: General J. A. Bordes, Ex-Member Corp Legislative, Jeremie, Haiti; C. F. Leslie, M. D., Vice-President International Association Railway Surgeons, Clyde Kansas; James A. Close, Esq., M. B. C. R. C. P., Edin. & L. R. S. S. Edin., No. 2031 Olive Street, St. Louis, Mo.; H. F. Doris, M. D., Press Club, New York City; Fred. P. Lowenstein, M. D.,New York City.

Proposed by T. Crisp Poole, Esq.: Cumbrae Stewart, Esq., Barrister-at-Law, Brisbane, Australia.

CORRESPONDING.—Proposed by Clark Bell, Esq.: Chief Justice John H. Burford, Oklahoma, Oklahoma Territory; The Baroness de Roques, 1 Rue de Taunery, Rouen, France; J. F. Sutherland, M. D., F. R. S. E. Deputy Commissioner in Lunacy for Scotland, Edinburgh, Scotland; Heathcote Hardinge,Esq, London, England; T. W. McDowall, M. D., L. R. C. S. E,, Supt, Northumberland Co. Insane Asylum. Morpeth, England.

Dr. Thomas Darlington, Treasurer, submitted his report, showing balance on hand May 18, 1898, $168.82. Received from members for dues from May 18 to date, $46.00. Total, $214.82. Paid orders on the Treasurer, $105.50; leaving a balance on hand of $109.32. On motion, the Treasurer's report was received and ordered placed on file.

Comunication from Dr. F. J. McGillicuddy to the Secretary, regarding a proposed memorial to be made by the various medical and other societies, to the late Dr. O'Dwyer and recommending the appointment of a committee by the Medico-Legal Society, of which Dr. O'Dwyer was formerly a member.

After the discussion, on a motion by Dr. Thomas Darlington, it was moved and carried that a committee of three be appointed by the chair upon the subject, with power to confer with other organizations upon the subject.

Communication from S. Abrams, 16 East 20th street, New York City, requesting the opinion of the Society upon the proper location of the incandescent light over the desks of clerks writing upon books. Upon motion, the communication was referred to the Executive Committee, with power.

The order of the evening was then taken up.

The paper of Major George Goodfellow, M. D., of San Francisco,

member of General Shafter's staff, upon "The Conduct of the Santiago Campaign from a Medical Standpoint" was read by title, the Secretary explaining the absence of Major Goodfellow, who had been suddenly called to San Francisco, before the full completion of his paper, and stating that the manuscript had not yet been received by the Secretary.

A paper was then read by Dr. George W. Grover, of Sheffield, Mass., in a discussion of the same general subject, entitled "Discriminations and Compensations as to the Medical Conduct of the Recent War."

The Secretary then presented a letter from Frank W. Ross, A. M., M. D., Active Assistant Surgeon, U. S. A., 1st Division Hospital, 2d Corps, Camp Alger,of Virginia, dated August 20, 1898, which was read by Dr. Thomas Darlington, and ordered placed on file and published in the Journal (vide Medico Legal Journal, September, 1898).

The subject "The Conduct of the Santiago Campaign from a Medical Standpoint" was then discussed. Dr. Robert A. Gunn spoke, and assailed the Medical Department having charge of the Santiago campaign; citing incidents from the diary of his nephew, a private in the 71st Regiment, N. Y., who had died in this city after his return, making serious charges against the officers and surgeons of that command, alleging gross neglect of duty.

Judge A. H. Dailey spoke of the importance of the subject, and of incidents within his personal knowledge of gross mismanagement and neglect of private soldiers in the camps in this state, after their return from the seat of war. Vice-President George L. Porter, Medical Director of the Connecticut Regiments, spoke at length, defending the officers and Surgeons from the assertions of Dr. Gunn, and paid a tribute to the army and its medical department, and a spirited defence from the general imputations that had been cast upon it in the public press.

H. Gerald Chapin, Esq., of the bar of New York, spoke in defense of the medical men in charge of the regiments; citing incidents from his own personal knowledge and experience.

Dr.Thomas Darlington spoke of the facts and incidents connected with soldiers he had treated, suffering from typhoid fever, contracted in that campaign, and of information they had given him, showing gross mismanagement, which he thought, perhaps, was due to the Quartermaster's Department. He did not claim that it was the fault of the Surgeon General of the army, but that the responsibility rested somewhere for neglect of the men and want of suitable and proper care in the hospital department, and criticised the statements made in the letter of Assistant Surgeon, Frank W. Ross.

The President, S. B. W. McLeod, spoke in defense of the medical service and of the propriety of an investigation into the hospital service in the camps and of the campaign itself,to ascertain the truth or falsity of criticisms and charges contained in the public press.

Mr. Clark Bell spoke in defense and praise of the army and its officers; and in defense of the surgeon general of the army and of the general medical conduct of that department. Mr. Bell cited the report of Col. V. Havard, Chief Surgeon of the department of Santiago, to Surgeon General Geo. M. Sternberg, dated Sept. 16, 1898. Mr. Bell also spoke in detail of the hospital system of the 5th army corps and its organization and work furnished by a high source.

Owing to the lateness of the hour the following papers were then read by title: "The Right and Wrong Test in Cases of Homicide by the Insane;" "Aphasia in Relation to Testamentary Capacity," by Clark Bell,Esq.; "The Criminal Responsibility of the Insane and Their Punishment," by Clark Bell, Esq.; "Suicide," by Clark Bell, Esq.: "Hypnotism," by Clark Bell, Esq.; "Immorality on the Judicial Bench," by T. Crisp Poole, Esq., (Barrister at Law, Brisbane, Queensland, Australia); "A Case of Ruptured Aortic Aneurism; Suit for Accident Insurance," by J. N. Hall, M. D., Denver, Colorado; "Subliminal Consciousness," by W. H. S. Monck, Esq., Barrister-at-Law, Dublin, Ireland.

The Secretary then announced the death of Dr. Adolf Grotenfelt, director in chief of the prison administration of Finland, court councillor and corresponding member of the Medico Legal Society of New York. Mr. Bell paid a high tribute to the life and career of this distinguished member and read a letter from Arvid Grotenfelt., describing the leading incidents of his career (vide Medico Legal Journal, September No. 1898.)

The Society then adjourned at a late hour.

S. B. W. McLEOD, President.
CLARK BELL, Secretary.
CAROLINE J. TAYLOR, Asst. Secretary.

NOVEMBER MEETING. 1898.

The November meeting of the Medico-Legal Society was held in joint session with the Section on Medico-Legal Surgery, at a dinner given at the Hotel Marlborough, 36th street and Brodway, New York, on th 16th of November. After the cloth was removed, the Medico-Legal Society organized, the President, Dr. S. B. W. McLeod, in the chair, Clark Bell, Esq., Secretary, and Caroline J. Taylor, Assistant Secretary, present.

The minutes of the October meeting were read and approved.

The following members were duly elected on recommendation of the Executive Committee:

ACTIVE MEMBERS.—Proposed by Clark Bell, Esq.: F. Medina Ferrer, A. B., M. D., New York City; Hon. O. P. Howell, Surrogate, Orange County, N. Y.

CORRESPONDING MEMBERS.—Proposed by Clark Bell, Esq.: Judge Arthur T. Johnson, Esq., of Gouverneur, St. Lawrence County, N. Y.; Charles W. Kimball, Esq., District Attorney, Penn Yan, Yates County, N. Y.

The Society proceeded to the nomination of officers for next year, for the annual election at the December meeting.

The President, S. B. W. McLeod, M. D., was renominated for President. Dr McLeod declined the election, with thanks for the honor, and said that he felt that after his two terms of service, it was his duty to give way for others.

Vice President Dr. Geo. L. Porter, of Bridgeport, was then placed in nomination. Dr. Porter asked leave to decline the nomination, with his best thanks for the honor, and said that he was so situated that he could not give the office proper attention, and that the best interests of the body would be served by the selection of some one else.

Ex-Judge Abram Dailey, Ex-President of the Society, was then nominated by Dr. Bettini de Moise, but declined the office.

Caroline J. Taylor then nominated Ex-President Hon. Jacob F. Miller, who asked permission to decline the re-election.

Vice-President Porter then nominated Mr. Albert Bach for the position, and the following officers were then placed in nomination, Dr, Geo, L, Porter declining the nomination for first Vice-President:

President,
ALBERT BACH, Esq. N. Y.

1st Vice-President,
F. B DOWNS, M D., Bridgeport, Conn.

2nd Vice-President,
GEO. W. GROVER, M. D., Sheffield, Mass.

Vice-Presidents for the States, Territories and Provinces.

Alabama—JudgeThos.W.Coleman,Montgomery.
Alaska—Clarence Thwing, M. D., Sitka.
Arizona—D. M. Purman, M. D., Phoenix.
Arkansas—H. C. Dunavant, M. D., Osceola.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Jules Morel, Mons.
Brazil—Prof. Nina Rodrigues, M. D., Bahia.
California—A. E. Osborne, M. D., Glen Ellen.
Colorado—Prof. I. T. Eskridge, Denver.
Connecticut—Judge A.M.Tallmadge, Bridgeport.
China—Harold Browett, Esq., Shanghai.
Cuba—Dr lLeopolo Y. Fernandez Berriel Havana
Dakota, N.—O. W. Archibald, M. D., Jamestown.
Dakota, S.—John M. Harcourt, Steele.
Delaware—Judge Ignatius C. Grubb, Wilm'gt'n.
Denmark—Prof. Godeken, Copenhagen.
Dist. of Columbia—W. W. Godding, M. D.,Wash.
Dom of Canada—Hon. A. G. Blair, Ottawa.
England—William L. Orange, M. D., London
Ecuador—Senor J. M. P. Caamano, Wash. D. C.
Florida—N. de V. Howard, M. D., Sanford.
France—Victor Parent, M. D., Toulouse.
Georgia—Richard J Nunn, M. D., Savannah.
Germany—Dr. H. Laehr, Berlin.
Guatemala—Senor Rafael Montufar.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Em.V.Havas,BudaPesth
Illinois—J. E. Owens, M. D., Chicago.
India—P. S. Sivaswamy Aivar, Madras.
Indiana—W. B. Fletcher, M. D., Indianapolis.
Indian Territory—I. H. Bailey, M. D., Dexter.
Iowa—Jennie M. Cowen, M. D., Davenport.
Ireland—Conolly Norman, M. D., Dublin.
Italy—Enrico Ferri, M. D., Rome.
Japan—Dr. I. Hashimoto, Tokio.
Kansas—Judge Albert H. Horton, Topeka
Kentucky—F. H. Clark, M. D.
Louisiana—I. J. Scott, M. D., Shreveport.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—D. Young, M. D., Selkirk.
Maryland—Wm. Lee Howard, M. D., Baltimore.
Massachusetts—Theo. H. Tyndale, Boston.
Mexico—Leon Lewis, M. D., Ozuluama
Michigan—Prof. Victor C. Vaughan, Ann Arbor.
Minnesota—T. Gold Frost, Esq., Minneapolis
Missouri—W. B. Outten, M. D., St. Louis.
Mississippi—Dr. C. A. Rice, Greenville.
Montana—C. K. Cole, M. D., Helena.
Nebraska—Hon. John M. Thurston, Omaha.
Nevada—S. M. Bishop, M. D., Reno.
New Brunswick—Judge A. H. Palmer, St. John.
Newfoundland—Dr. K. D. McKenzie, St. Johns.
New Hampshire—Gran. P. Conn, M.D.,Concord.
New Jersey—Judge C. G. Garrison, Camden.
New Mexico—Gov. Bradford L. Prince,Santa Fe.
New South Wales—George A. Tucker, M. D.
New York—Mrs. M. Louise Thomas, N. Y. City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina—E. C. Smith, Esq., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Hon. Wm. S. Fielding, Ottawa.
Ohio—Judge H. C. White, Cleveland.
Oklahoma Ter.—A. H. Simonton, M. D.,Okla.Cy.
Ontario—Daniel Clark, M. D., Toronto.
Oregon—Ex-Chief Just. Hon. Wm.P.Lord, Salem.
Pennsylvania—Geo. B. Miller, M. D., of Phila.
Peru—Senor F. C. C. Zegarro, Washington, D. C.
Portugal—Bettincourt Rodriguez, M. D., Lisbon
Quebec—Wyatt Johnson, M. D., Montreal
Rhode Island—F. B. Fuller, M. D., Pawtucket.
Russia—Prof.Dr.Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W.W. Ireland, Preston Pans,Edinb'h.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
Silesia—H. Kornfeld, M. D., Grotkau.
South Carolina—
Spain—Sig. A. M. Alv. Taladriz, M.D.,Valladolid.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. L. Wille, Basle.
Tennessee—Michael Campbell, M. D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Frederick Clifft, M. D., St. George.
Vermont—Prof. A. P. Grinnell, Burlington.
Virginia—William F. Drewry, Petersburg.
Wash.—J. W. Vaughoop, M. D., Ft. Stellacoom.
West Virginia—F. M. Hood, M. D., Weston.
Wisconsin—Dr. U. O. B. Wingate, Milwaukee.
Wyoming—R. Harvey Reed, M. D., Fort Reno.

Secretary,
CLARK BELL, Esq., of N. Y.

Corresponding Secretary,
MORITZ ELLINGER Esq., of N. Y.

Assistant Secretary,
CAROLINE J. TAYLOR, of Conn.

Pathologist,
PROF. W. A. ADAMS, M.D., of Chicago.

Treasurer,
THOMAS DARLINGTON, M. D., of New York City.

Chemist,
PROF. C. A. DOREMUS, M. D. of N. Y.

Curator,
J. MOUNT BLEYER, M. D., of New York City.

Toxicologist,
PROF. W. B. McVEY, of Boston.

Librarian,
MARGHERITA ARLINA HAMM. of New York City.

Assistant Librarian,
FLORENCE DANGERFIELD POTTER, LL. B. of New York City.

Bacteriologist,
G. BETTINI DI MOISE, M. D., of N. Y.

Microscopist,
PROF. MOSES C. WHITE M. D., of New Haven, Conn.

TRUSTEES:

Legal,
JAMES L. BENNETT, ESQ., of N. Y.

Medical,
SOPHIA McCLELLAND, of N. Y.

COUNSELLORS,

Legal.
FREDERICK E. CRANE, ESQ., of N. Y.

Medical.
GEO. CHAFFEE, M. D., of N. Y.

PERMANENT COMMISSION:

Legal,
CLARK BELL, ESQ., of N. Y.

Medical,
NICHOLAS SENN, M. D., of Chicago.

The Chair announced as the Committee on the O'Dwyer testimonial, Dr. H. W. Mitchell, Dr. Thos. Darlington and Judge Abraham J. Daily

The Society then adjourned, and the Section on Medico-Legal Surgery organized, Clark Bell, Esq., Vice-President of the Section, in the chair, and Caroline J. Taylor acting as Secretary.

Mr. Bell stated that Major Goodfellow was in the city, suffering from an acute attack of pneumonia, and was forbidden by his physician to leave his room or bed; but that his paper was present, and wolud be read by Vice-President Mr. Albert Bach, who then read the paper, "The Conduct of the Santiago Campaign, from a Medical standpoint." The paper was discussed by Ex-Chief Surgeon of the 5th Corps, L. V. Harvard, M. D.; (whose remarks are printed in this number of the Journal) by Dr. F. Medina Ferrer (whose remarks appear elsewhere in the Journal); by Dr. Geo. L. Porter, Dr. Thos. Darlington, Dr. Geo. W. Grover, Mr. Albert Bach, and the discussion was closed by Mr. Clark Bell, (whose remarks are published in this number of Journal) in the absence of the auhtor of the paper

The Secretary announced that the Bulletin of the Medico-Legal Congress of 1895 was completed, and ready for subscribers or others, at $2 per volume to new subscribers.

The Section adjourned.

S. B. W. McLEOD, President.
CLARK BELL, Secretary.
CAROLINE J. TAYLOR, Asst. Secretary.

ANNUAL MEETING.—December 21st, 1898.

The Medico-Legal Society met on December 21, 1898, at the Waldorf-Astoria Hotel, 5th avenue, 33d and 34th streets, New York City, President S. B. W. McLeod, M. D., in the chair, Clark Bell, Esq., Secretary, Caroline J. Taylor, Assistant Secretary.

The following tellers were named by the Chair, to whom the Assistant Secretary delivered the ballots cast by mail or received by her from members, viz., Carleton Simon, M. D., Ida Trafford Bell and the Secretary.

The minutes of the November meeting were read and approved.

The following were duly elected to membership, on recommendation of the Executive Committee:

ACTIVE MEMBERS.—Proposed by Clark Bell, Esq.: Hon. Pardon E. Tillinghast, Supreme Bench of Rhode Island, Providence, R. I.; Leslie Meacham, Esq., No. 313 Second Avenue, New York City.

CORRESPONDING MEMBERS.—Proposed by Clark Bell, Esq.: Dr. Vanandenaern, President Society of Mental Medicine, Medical Sup't Asylum for the Insane at Tirlemont, Belgium; Hon. William Hammersley, Supreme Bench of Connecticut, Hartford, Conn.; Hon. Frederick B. Hall, Supreme Court of Connecticut, Bridgeport, Conn.; Hon. Horatio Rogers, Supreme Bench of Rhode Island, Providence, R. I.; Hon. William W. Douglass, Supreme Bench of Rhode Island, Providence, R. I.; Hon. Benjamin M. Bosworth, Suprem Bench of Rhode Island, Warren, R. I.; Andrew A. White, Esq., Counsellor-at-Law, Binghampton N. Y.; Dr. J. de Nobele, Editor Annals de la Societie de Medicine Legale, 58 Rue Savaen, Ghent, Belgium; Professor De Smeth, University of Brussels, Belgium; Professor Dallemagne, Professor of Medical Jurisprudence, University of Brussels, Brussels, Belgium; M. de Busschere, Counsellor of the Court of Appeals, Brussels, Belgium; M. Van Vyve, Medicine Legist, Antwerp, Belgium; Profesor Dr. Jorchansky, Profesor University, Kharkoff, Russia; Dr. P. Hartenberg, Editor Revue de Psychologie, 174 Boulevard St. Germain, Paris, France; Dr. Afranio Peixoto, Bahia, Brazil; Sydney Kuh, M. D., Professor of Diseases of the Nervous System, Chicago Post-Graduate Medical School, Chicago, Ill.; Profesor Dr. Gaspare Virgilio, University Reggio Nell Emilio; Professor Dr. A. Mosso, University of Turin, Turin, Italy; Monsieur Poitterin, Judge of Instruction, Tribunal de la Seine, Paris, France; Albert S. Batchellor, Esq., Counsellor-at-Law, Littleton, N. H.

Dr. J. Mount Bleyer read a paper entitled "Instant Death by Decapitation an Impossibility According to Biological Analysis." This paper was discussed by Messrs. Clark Bell, Esq., Dr. W. L. Savage, of Columbia, Mr. Albert Bach, Dr. Carleton Simon, and the Chairman, Dr. S. B. W. McLeod.

A paper entitled "Criminal Treatment of the Insane," by W. H. S. Monck, was then read by the Secretary, in the absence of the author.

The tellers made a report of the election, that the following officers had received a majority of all the votes cast:

President,

ALBERT BACH, Esq., N. Y.

1st Vice-President,

F. B DOWNS, M D., Bridgeport, Conn.

2nd Vice-President,

GEO. W. GROVER, M D., Sheffield, Mass.

Vice-Presidents for the States, Territories and Provinces.

Alabama—Judge Thos. W. Coleman, Montgomery.
Alaska—Clarence Thwing, M. D., Sitka.
Arizona—D. M. Purman, M. D., Phoenix.
Arkansas—H. C. Dunavant, M. D., Osceola.
Austria—Prof. R. Krafft-Ebing, Vienna.
Belgium—Dr. Jules Morel, Mons.
Brazil—Prof. Nina Rodrigues, M. D., Bahia.
California—A. E. Osborne, M. D., Glen Ellen.
Colorado—Prof. J. T. Eskridge, Denver.
Connecticut—Judge A. M. Tallmadge, Bridgeport.
China—Harold Browett, Esq., Shanghai.
Cuba—Dr. Leopolo Y. Fernandez Berriel, Havana.
Dakota, N.—O. W. Archibald, M. D., Jamestown.
Dakota, S.—John M. Harcourt, Steele.
Delaware—Judge Ignatius C. Grubb, Wilm'gt'n.
Denmark—Prof. Godeken, Copenhagen.
Dist. of Columbia—W. W. Godding, M. D., Wash.
Dom. of Canada—Hon. A. G. Blair, Ottawa.
England—William L. Orange, M. D., London.
Missouri—W. B. Outten, M. D., St. Louis.
Mississippi—Dr. C. A. Rice, Greenville.
Montana—C. K. Cole, M. D., Helena.
Nebraska—Hon. John M. Thurston, Omaha.
Nevada—S. M. Bishop, M. D., Reno.
New Brunswick—Judge A. H. Palmer, St. John.
Newfoundland—Dr. K. D. McKenzie, St. Johns.
New Hampshire—Gran. P. Conn, M.D., Concord.
New Jersey—Judge C. G. Garrison, Camden.
New Mexico—Gov. Bradford L. Prince, Santa Fe.
New South Wales—George A. Tucker, M. D.
New York—Mrs. M. Louise Thomas, N. Y. City.
New Zealand—Prof. Frank G. Ogston, Dunedin.
North Carolina—E. C. Smith, Esq., Raleigh.
Norway—Dr. Harold Smedal, Christiana.
Nova Scotia—Hon. Wm. S. Fielding, Ottawa.
Ohio—Judge H. C. White, Cleveland.
Oklahoma Ter.—A. H. Simonton, M. D., Okla. Cy.
Ontario—Daniel Clark, M. D., Toronto.

Ecuador—Senor J. M. P. Cammiano, Wash. D. C.
Florida—N. de V. Howard, M. D., Sanford.
France—Victor Parent, M. D., Toulouse.
Georgia—Richard J. Nunn, M. D., Savannah.
Germany—Dr. H. Laehr, Berlin.
Guatemala—Senor Rafael Montufar.
Holland—Dr. P. A. H. Sueens, Vucht.
Hungary—Staatsanwalt Em.V.Havas,BudaPesth
Illinois—J. E. Owens, M. D., Chicago.
India—P. S. Sivaswamy Aiyar, Madras.
Indiana—W. B. Fletcher, M. D., Indianapolis.
Indian Territory—I. H. Bailey, M. D., Dexter.
Iowa—Jennie M. Cowen, M. D., Davenport.
Ireland—Conolly Norman, M. D., Dublin.
Italy—Enrico Ferri, M. D., Rome.
Japan—Dr. J. Hashimoto, Tokio.
Kansas—Judge Albert H. Horton, Topeka
Kentucky—F. H. Clark, M. D.
Louisiana—I. J. Scott, M. D., Shreveport.
Maine—Judge L. A. Emery, Ellsworth.
Manitoba—D. Young, M. D., Selkirk.
Maryland—Wm. Lee Howard, M. D., Baltimore.
Massachusetts—Theo. H. Tyndale, Boston.
Mexico—Leon Lewis, M. D., Ozuluama.
Michigan—Prof. Victor C. Vaughan, Ann Arbor.
Minnesota—T. Gold Frost, Esq., Minneapolis
Oregon—Ex-Chief Just. Hon. Wm.P.Lord, Salem.
Pennsylvania—Geo. B. Miller, M. D., of Phila.
Peru—Senor F. C. C. Zegarro, Washington, D. C.
Portugal—Bettincourt Rodriguez, M. D., Lisbon.
Quebec—Wyatt Johnson, M. D., Montreal.
Rhode Island—F. B Fuller, M. D., Pawtucket.
Russia—Prof.Dr.Mierzejewski, St. Petersburgh.
Saxony—Judge de Alinge, Oberkotzon Hof.
Scotland—W.W. Ireland, Preston Pans,Edinb'h.
Servia—Hon. Paul Savitch, Belgrade.
Sicily—Prof. Dr. Fernando Puglia, Messina.
Silesia—H. Kornfeld, M. D., Grotkau.
South Carolina—
Spain—Sig. A. M. Alv. Taladriz, M.D.,Valladolid.
Sweden—Prof. Dr. A. Winroth, Lund.
Switzerland—Prof. Dr. L. Wille, Basle.
Tennessee—Michael Campbell, M. D., Nashville.
Texas—Dr. D. R. Wallace, Terrell.
Utah—Frederick Clifft, M. D., St. George.
Vermont—Prof. A. P. Grinnell, Burlington.
Virginia—William F. Drewry, Petersburg.
Wash.—J. W. Waughoop, M. D., Ft. Steilacoom.
West Virginia—F. M. Hood, M. D., Weston.
Wisconsin—Dr. U. O. B. Wingate, Milwaukee.
Wyoming—R. Harvey Reed, M. D., Fort Reno.

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PERMANENT COMMISSION:

Legal,
CLARK BELL Esq., of N. Y.

Medical,
NICHOLAS SENN, M. D., of Chicago.

The Chair announced the candidates duly elected.

The Secretary reported two vacancies in the office of Counsellors, on the legal side, in the place of Wm. Hepburn Russell, Esq., and of Rosalie Loew, LLB., who have failed to qualify. On motion the Society proceeded to the election of a Counsellor for one year for the vacancy of Wm. Hepburn Russell, Esq.

R. L. Pritchard, Esq., having received a majority of all the votes cast, was declared duly elected.

Wm. Doris, Esq., was duly elected to fill the vacancy of Rosalie Loew, LLB., for two years.

Dr. Carleton Simon was duly elected to fill the vacancy caused by the resignation of Dr. Fannie W. Oakey, for two years.

The reports of the Treasurer of the two Sections and of the other officers, was, on motion, deferred to the January meeting, to enable the reports to embrace the year ending December 31st, 1898.

The Society then adjourned.

S. B. W. McLEOD, M. D., President.
CLARK BELL, Secretary.
CAROLINE J. TAYLOR, Asst. Secretary.

BOOKS, PAMPHLETS AND JOURNALS RECEIVED.

NICHOLAS SENN, M. D., PH. D., LL. D., Surgeon General of Illinois, Lieutenant-Colonel U. S V., Chief Surgeon, 6th Army Corps. "On the Frequency of Cryptorchism and its Results," 1898. "Restitution of Skin by Plastic Operation in Cases of Extensive Traumatic Surface Defects of the Scrotum and Penis," 1898. "The Invasion of Porto Rico from a Medical Standpoint," 1898. "On the Frequency of Varicocele and Limitations of Operative Treatment," 1898. "Etiology and Classification of Cystitis." "Presidential Address before the American Medical Association," 1897. "The Modern Treatment of Gunshot Wounds in Military Practice," 1898. "Intestinal Tuberculosis," 1898.

F. R. STURGIS, M. D. "Are Complete Castrates Capable of Procreation," 1898.

FREDERICK PETERSON, M. D. "Kratonia," 1897. "New Paths in Psychiatry," 1898. "Vibratory Therapeutics," 1898, "Bromitism Epilepsy," 1897.

J. ADELPHI GOTTLIEB, M. A., M. D. "Dermatological Excerpts," 1898. "Spasmus Bronchialis, or Asthma," 1898.

F. C. VALENTINE, M. D,, New York. "Chronic Urethritis," 1898

CLAYTON PARKHILL, M. D., Denver. "Bone Clamp in Ununited, Recent and Displaced Fractures," 1898.

DR. AFRANIO PEIXOTO, Bahia. "A Heranca, do Adultino," 1898. "Epilepsia, E. Crime," 1898.

HENRY O. MARCY, A. M., M. D., LL. D., Boston. "Surgery of Uterine Myomata."

GEO. CHAFFEE, M. D. "Discussion on Traumatic Neurasthenia," 1898.

CLARKE GAPEN, M. D., LL. B. "Insanity as a Neurosis." 1898.

EDWARD COWLES, M. D. "Advanced Professional work in Hospitals for Insane," 1898. "Catalogue of Art Rooms." "84th Annual Report of McLean Hospital and Convalescent Home, Waverly, Mass."

CHAS. D. AARON, M. D., Detroit. "Chronic Catarrh of the Stomach," 1897. "Intestinal Auto-Intoxication," 1897. "Hemea of the Linea Alba," 1897. "Trans-Illumination of Stomach," 1898.

HAVELOCK ELLIS, England. "A Note on the Bedborgh Trial," 1898.

JOHN W. AIKEN, Carterville, Ga. "Aggressions of the Federal Courts," 1898.

L. UNION INTERNATIONALE DE DROIT PENAL. 7th Volume, Book 2. 1898.

NATIONAL PURE FOOD AND DRUG CONGRESS. Transactions, 1898.

ARTHUR LOEWY, ESQ. "The Case of Edward Shannon," 1898.

CHARLES DENISON, A. M., M. D. "Exercise and Food for Pulmonary Invalids," 1895 "Modern Treatment of Tuberculosis," 1898.

J. H. WOODWARD, B. S., M. D., New York. "Course and Management of Cataract," 1898.

CIVIL SERVICE COMMISSION. Report, July 1, 1896, to June 30, 1897.

THE BOSTON BOOK CO. Bouvier's Law Dictionary, by Francis Rawle, Esq., 2 Vols. 1898.

FREDERICK PETERSON, M. D. "A Case of Amaurotic Family Idiocy, with Autopsy," 1898.

C. W. CLOSE, ESQ. "The Free Man, Vol. 2, No. 10," 1898.

SOUTH WESTERN MEDICAL RECORD, Houston, Tex. Vol. 3, No. 12, 1898.

HARPER BROTHERS, N. Y. "Literature," October No., 1898.

J. BLEEKER MILLER, ESQ. "Leo XIII and Modern Civilization," 1897.

F. W. H. MYERS London. "Parts XXXII and XXXIII Proceedings of Society for Psychical Research," 1898.

PEARCE BAILY, M. D. "Primal Focal Hæmatic Myelia from Traumatism," 1898.

PROF. ENRICO FERRI, Rome. "La Justice Penale, sou Evolution, ses Defauts, sou Avenir," 1898.

DR. H. KORNFELD, Grotkau, Silesta. "Locallizzaziouі-Cerebrali," by Prof. Luciani. 1885.

SIR JAMES CRICHTON BROWNE, F. R. S. Inaugural Address before the School of Pharmacy, of the Pharmaceutical Society of Great Britain. October, 1898.

DR. ELMER LEE, A. M., M. D., Ph. B., New York. "Practical Experiments in the Treatment of Cholera," 1893. "The Frequency of Apoplexy Among the Higher Classes with Suggestions for its Prevention and Escape from Fatality," 1898. "Treatment of Asiatic Cholera," 1895. "How Far Does a Scientific Therapy Depend upon the Materia Medica in the Cure of Disease," 1898. "Prevention and Treatment of Cholera," 1893. "Typhoid Fever," 1894. "The Medical Treatment of Appendicitis," 1898. "Prevention of Smallpox," 1896. "The Fallacy of Antitoxin Treatment as a Cure for Diphtheria," 1896. "How to cure Rheumatism," 1896. "Syphilis Successfully Treated by Hydriatics," 1896.

MAGAZINES.

THE GREEN BAG, Boston, Mass. The December number of this charming Journal has a good reproduction of the statue of Rufus Choate, in Boston Court House, and gives the admirable address of Joseph H. Choate at its unveiling on October 15th, 1898.

The paper of Albert H. Russell, read before the Georgia Bar Association July 8, 1893, on the Wit and Wisdom of Chief Justice Logan E. Bleckly, is fine reading.

Irving Browne contributes a tender obituary to the memory of A. Oakey Hall, which will find an echo in many a breast at the Bar, who were fond of and greatly admired his versatile talents, brilliant pen and eloquent voice.

Mr. Brown also notices and reviews two addresses on Expert Testimony recently made, one by Hon. Theodore Bacon, of Rochester, before the Liberal Club of Buffalo, and the other by St Clair McKelway, before the Social Science Association of Saratoga, and each of which denounced the abuses under the existing system, the former of whom suggested no remedy and the latter several. In discussing the subject Mr. Brown says:

"So outrageous and ridiculous is the extent to which the doctrine is now carried, that one is prone impatiently to exclaim, abolish it utterly; but it is evident that there are cases in which the testimony of intelligent and candid experts is not only defensible but nearly indispensable, as for example, the question of the presence of poison in a human body, or the probable duration of a physical injury. Opinions on such questions go far toward being evidence of facts, and are far outside the bounds of mere speculation, within which experts so differ from one another and contradict themselves and, as the mass of the community have come to believe, testify invariably in favor of the party who pays them."

* * * * * * * *

"There is a manifest difference between a hired legal champion and a hired witness who testifies to order. The one is necessary and blameless, the other is a disgrace to jurisprudence and a hindrance to justice."

He also says, in reviewing the address of the latter:

"Mr. Kelway, in conclusion, elaborates his view that crime is a disease, and should be cared for rather than punished. He attributes much to heredity and would prevent criminally sick persons from propagating their species For 'heredity' read 'environment,' and we should go some way in agreeing with him."

L INTERMEDIAIRE DES NEUROLOGISTES ET DES ALIENITES. Edited by Dr. Paul Sollier, and published by Felix Alcan, 108 Boulevard Saint Germain, Paris, France. Monthly. It has two novel ideas in journalism to enable it to act as an intermediary between the Neurologist and the Alienist:

1. To submit a series of questions and subjects connected with Neurology, Psychiatry and the Medical Jurisprudence of Insanity, in English French and German, in each number and publish the replies from all sources in the succeeding numbers.

2. To publish, on the same page, side by side, its contents in the three languages.

They ask for the replies to be made as terse and brief as possible, and solicit replies from all sources. Thirteen questions are asked in the November number, 1898.

We shall watch with interest the success of this novel experiment in journalism. We venture also to suggest that more care be taken with the English version of the questions.

For example, the 13th question is, "I observe a case of hemiplegia with total facial paralysis, in which the orbiculosis is much more injured than in the cases published by Miraille. Since these last other ones have they been described?"

This could be improved upon, and the criticism will be found to apply to several of the questions and matter in the journal.

THE AMERICAN MONTHLY MICROSCOPICAL JOURNAL. Chas. W. Smiley, publisher, Washington, D. C. This is an able and interesting journal, well illustrated and reports a large amount of original work. It is often illustrated, and closes its 19th volume with the December number, 1898.

ARCHIVES D' ANTHROPOLOGIE CRIMINELLE ET DE CRIMINOLOGIE. A. Lacassagne & G. Tarde, Editors, Lyon, France. The March number (74) 1898, contains an exhaustive article by Prof. Julius Z. Marriewictz, of the University of Cracovie, in Austria, on the "Evolution de la Peine." He classes his subjects and treats of

1. The essence of punishment.
2. It is not intended as revenge for crime.
3. Social relation.
    a. Social vengeance.
    b. Patriarchal punishment.
    c. The religious sentiment.

The paper as a whole is an able contribution to the literature of criminology and penology.

Dr. J. Marty, ex Prof. of the Medical School at Rennes, contributes a paper on "The Physical Development of Delinquents," which is very valuable from the reliable and carefully prepared statistical information which it affords.

Dr. Paul Herve, of Mans, reports a case of suicide by strangulation.

The number contains among other valuable matter, the report of Monsieur Blendel, Advocate General to the Court of Appeals, in the case of Doctor Laporte, and reports at length the action of the Medico-Legal Society of France at the session of February 14th, 1898, upon the question of "Is the author of an accident responsible for the consequences that follow it?"

LITERATURE. A Weekly, published by Harper Brothers at $4 a year. Edited by H. D. Traill. It has strong leading articles in each number, on current topics of interest. The main body of the work is devoted to reviews of the higher class of literary productions, with foreign letters, notices of the magazines, correspondence notes and lists of new books and reprints.

SUPPLEMENT.

HISTORICAL SKETCH OF THE SUPREME COURT OF ERRORS OF CONNECTICUT.

BY SIMEON E. BALDWIN, LL. D., OF THE SUPREME BENCH OF CONNECTICUT.

The Supreme Court of Errors of Connecticut dates from 1784.

The Colonial charter had given almost all the powers of government to the "General Court," otherwise called the General Assembly. This body had created several inferior courts, but kept the supreme judicial authority in its own hands, denying even, until overruled by the English government, the liberty of appeal given generally by the laws of the realm in favor of all aggrieved suitors in the Colonies, to the King in Council.

The General Court consisted of the Governor, Deputy Governor, twelve "Assistants," or councillors, elected on a general ticket, and representatives chosen by and for each town. It sat twice a year, and there were also two sessions annually of a "Superior Court," or "Court of Assistants," composed of the Governor, Deputy Governor, and six, at least, of the twelve Assistants, which exercised only judicial functions. In 1710, this Court of Assistants was replaced by a Superior Court, consisting of a Chief Judge and four associates, and the bench was filled by adding four of the Assistants to the Governor.

There were, from an early date, County Courts, from

THE SUPREME COURT OF CONNECTICUT,
JANUARY 1899.

HON. FREDERICK B. HALL,
Associate Justice.

HON. DAVID TORRANCE,
Associate Justice.

HON. CHARLES B. ANDREWS,
Chief Justice.

HON. WILLIAM HAMERSLEY,
Associate Justice.

HON. SIMEON E. BALDWIN,
Associate Justice.

which an appeal lay to the Superior Court. New trials, however, could only be granted by the General Assembly until 1762, when they conferred this power on the Superior and County Courts as to cases within their jurisdiction, but still reserved a general superintending authority over these and all inferior courts. (Calder v. Bull, 2 Root 352; 3 Dallas 386, 395).

Appeals from the Superior Court to the General Assembly were not infrequent, and in 1719 a board of commissioners was established, consisting of ten members, for the trial of writs of error during the next two years. Apparently they cleared off the docket, for the Act was not renewed when their commission expired, though a few years later a similar measure was adopted to dispose of all petitions in equity and writs of error then pending before the Assembly. In 1728 (Chap. XIX) by the advice of the Judges of the Superior Court, a limit of time was first set for bringing writs of error, the period adopted being three years.

The Superior Court continued to grow in popular favor, and at last, in 1762, the General Assembly determined to take no further cognizance of appeals from its judgments upon writs of error which it might issue to the County Courts (Rev. of 1769, p. 48). This legislation was the more easily had, because the Judges of the Superior Court were generally among the leading members of the upper house of Assembly.

In 1784, the statutes of the commonwealth were revised, to suit its new conditions as a sovereign State, and a Supreme Court of Errors was, for the first time, constituted, as a distinct and independent tribunal.

It is probable that the Colonial government would never have ventured on the creation of a Court whose name declares so plainly that it is one of last resort. The famous

case of Winthrop v. Lechmere, which had been taken up from the Superior Court of Connecticut to the King in Council, where a decree of reversal was rendered in 1728, had made Connecticut feel the necessity of care to avoid any appearance of insubordination to the final authority of the Crown. In that cause the validity of her laws of succession had been successfully attacked, and there was grave fear that many of her statutes would share a similar fate, if they should attract the notice of the British ministry.

The institution of the Supreme Court of Errors in 1784 was the work of Roger Sherman and Richard Law, two of the most distinguished of the Judges of the Superior Court, during the last century, who were appointed by the General Assembly, in 1783, to revise the general laws of the new State.

The Court was composed (Revision of 1784, p. 266) of the Lieutenant Governor and Council, and was to meet once a year at the capital, on the Tuesday of the week before the opening of the General Assembly. A few years later, the Governor was added to the Court, and its annual Term was postponed to a time after the Spring Session of the legislature.

The Act of 1784 (Rev. of 1784, p. 207) made it the duty of each of the Judges of the Superior Court, upon rendering judgment on writ of error, demurrer, special verdict, or motion in arrest of judgment, to sign and file a written opinion, stating the reasons on which it was based, so "that the case may be fully reported, and if removed by writ of error, be carried up with greater advantage, and thereby a foundation laid for a more perfect and permanent system of common law in this state." The Supreme Court of Errors were also required " to cause the reasons

of their judgments to be committed to writing and signed by one of the Judges."

At this period the Superior Court was made up of able and experienced lawyers, but the Supreme Court of Errors was composed of those whom the course of political advancement had put in what had now become the upper house of the General Assembly. Most of them, ordinarily, were members of the bar, but only because members of the bar are in all popular government apt to be selected to fill the most important political offices. Up to 1784 the practice continued of choosing the Judges of the Superior Court generally from the number of the Assistants, but by a self-denying ordinance, Judges Sherman and Law reported in favor of a law disqualifying members of either house from holding at the same time a seat on the bench of this Court, and such a statute was accordingly adopted.

Connecticut is proud to claim the honor of publishing the first volume of reports of the judicial decisions of any American Court. It was the work of Col. Ephraim Kirby, of Litchfield, and was printed there in 1789, covering adjudications of the Superior Court from 1785 to 1788, and some decisions of the Supreme Court of Errors.

The Act of 1784, which required the Judges to write out their opinions, he says in his preface, "was a great advance toward improvement; still it left the business of reformation but half performed—for the arguments of the Judges, without a history of the whole case, would not always be intelligible, and they would become known to but few persons, and being written on loose papers, were exposed to be mislaid and soon sink into total oblivion."

The Superior Court, whose decisions were thus reported, consisted of Richard Law, LL. D., (Yale College, class of 1751), Chief Judge, and afterwards appointed by President Washington Judge of the District Court for the District of

Connecticut; Eliphalet Dyer, LL. D., (Yale College, class of 1740), who became Chief Judge, upon the transfer of Judge Law to the Federal judiciary; Roger Sherman, the signer of the Declaration of Independence; William Pitkin, and Oliver Ellsworth, LL. D., (College of New Jersey, class of 1766), afterwards Chief Justice of the United States. Of these, all except Judge Dyer were, up to the time when the Act of 1784 took effect, also members of the Council, and therefore of the Supreme Court of Errors. Judge Dyer had been in the Council from 1776 to 1780.

Among the other members of the first Supreme Court of Errors were the Lieutenant Governor and Presiding Judge *ex officio*, Samuel Huntington, LL. D., a signer of the Declaration of Independence and President of the Continental Congress; Major Gen. Joseph Spencer, of the Revolutionary Army; Oliver Wolcott, LL. D., (Yale College, class of 1747), and William Williams, (Harvard College, class of 1751), signers of the Declaration of Independence; Andrew Adams, LL. D., (Yale College, class of 1760), who was made Chief Judge of the Superior Court in 1793; Benjamin Huntington, LL. D., (Yale College, class of 1761), a member of the Continental Congress and a Judge of the Superior Court from 1793 to 1798; Joseph Platt Cooke, (Yale College, class of 1750), formerly a member of the Continental Congress, and Stephen Mix Mitchell, LL. D., (Yale College, class of 1763), a member of the Congress of the Confederation, and afterwards a senator of the United States, and Chief Judge of the Superior Court from 1807 to 1814.

The majority of the Assistants, who thus composed the Supreme Court of Errors, were lawyers, and such remained the general character of the body during the continuance of its judicial functions. It continued also to be in effect

a permanent body, though dependent on annual elections.

This was due to an ingenious device adopted at the outset of the Colony, by which perpetuation in office was virtually secured to those who once obtained a seat in the Council. No one was eligible who had not been previously nominated by the freemen or the General Assembly. On election day the official nominations were read, and severally voted upon by ballot, and each person for whom more affirmative than negative ballots were cast, was to be declared elected, until the number was full, without regard to whether he had a majority or even a plurality of the total poll. The arrangement of names on the ticket was to place the present incumbents first, in the order of seniority, and then add any new names according to the number of votes cast for each, when he was nominated. There were twenty names annually propounded, out of which to choose the twelve Assistants or Councillors; but in practice the first twelve on the list were almost invariably elected. It was not uncommon for a man to be among the last eight on the nomination list for four years before deaths or resignations made room for him to work up into the circle of the favored twelve, and sometimes ten or twelve years were occupied in this slow process of promotion. Between 1783 and 1801, only once did an Assistant, who desired it, fail of a re-election.

The result of this curious arrangement of political machinery was that the Supreme Court of Errors was practically a more permanent body than the Superior Court. The Judges of the latter tribunal were annually elected by the General Assembly, and there was no official ticket to limit the choice. Custom favored and generally secured a re-appointment, but there was no certainty of it.

Chief Justice Swift, in his "System of the Laws of the State of Connecticut," (1, p. 94), published at Windham,

in 1795, says that, "it is apparent that where a case comes before the Superior Court for trial, between an influential character, who is usually a member of the legislature, and a poor man without influence, the Judges have not that independence of situation, which is necessary to enable them to form an impartial decision."

Kirby's reports were followed, in 1798, by the first volume of Root's Reports, prepared by one of the Judges of the Superior Court. These include a few cases decided in that Court before the year at which Col. Kirby commenced his labors, the earliest being decided in 1764. The main work covers the decisions of the Superior Court and of the Supreme Court of Errors from 1789 to 1793, and four years later a second volume brought the work down to 1798.

It is seldom that either Kirby or Root gives any further notice to a decision of the Supreme Court of Errors, than to record the result. It may be inferred from this that in rendering their judgments, while they were bound by law to state the reasons for them, they did it so briefly as to contribute little of value to the study of the case. Occasionally, however, an opinion is reported that was prepared with care and merits attention, as in Woodbridge v. Winthrop, 1 Root 559.

The first two volumes of Day's Reports of the decisions of the Supreme Court of Errors, which cover the period from 1802 to 1807, exhibit similar features. He gives arguments of counsel at great length, but usually dismissed the action of the Court, with the simple statement that the judgment was affirmed or reversed, as the case may be. In the few cases where their opinion is given at length, and is reported, there is no reference to the name of the Judge who prepared it.

This disinclination of the Supreme Court to prepare

opinions arose, no doubt, partly because they were not paid for it, and partly because no special duty in this respect was cast upon any individual Judge. In the Superior Court, the Act of 1783 had required of each a separate opinion. As to the Supreme Court of Errors, it had simply directed the filing of a statement of reasons, attested by the signature of one of the Judges, but representing only the Court as a whole. There was, therefore, no opportunity for the expression of individual opinion, nor, in view of the presence of laymen on the bench, and the fact that it was presided over by the Governor or Lieutenant Governor, who was often not a lawyer, would it have been practicable to call on each member for a particular expression of his views.

The method of electing Assistants, which has already been described, kept the Federalists in supreme power, after what Jefferson called the Revolution of 1800 had displaced them from the control of the national administration. The Republican party was rapidly growing in Connecticut, and their leaders did not hesitate to attack what they considered the antiquated and cumbrous machinery by which justice or injustice was administered in the last resort. The State was still governed by no other constitution than the royal charter of Charles II, and such usages as had grown up under it. "All the legislative, executive and judicial powers of government," said one of the Republican orators, in 1804, when Jefferson's second election to the Presidency was being celebrated at Hartford, have been "by the pleasure of his majesty," King Charles, "tumbled into a common mass." . . . "At the present moment all these powers, together with a complete control of elections, are in the hands of seven lawyers, who have gained a seat at the council board. These seven men virtually make and repeal laws as they please, appoint

all the Judges, plead before those Judges, and constitute themselves a Supreme Court of Errors, to decide in the last resort on the laws of their own making. To crown this absurdity, they have repealed a law which prohibited them to plead before the very court of which they are Judges."

The seven men to whom he thus referred were named in a foot note to the oration, when printed:—David Daggett, Nathaniel Smith, Chauncey Goodrich, Jonathan Brace, John Allen, William Edmond and Elizur Goodrich, all leading Federalists. Other lawyers with them on the bench, who were less obnoxious to their political opponents, were the Lieutenant Governor, John Treadwell, LL. D., and Oliver Ellsworth, LL. D., the immediate predecessor of John Marshall as Chief Justice of the United States.

It was impossible to defend much longer the system thus arraigned at the bar of public opinion, and in 1806, the Judges of the Superior Court were made, when sitting *in banc*, the Supreme Court of Errors, in place of the Governor, Lieutenant Governor, and the twelve Assistants, of whom the "seven lawyers" had formed so large a part. Their number was increased from six to nine, and the new Court was to meet once a year, alternately at Hartford and New Haven, the members doing circuit duty during the rest of the time. Each circuit was held by three Judges sitting together. Chief Justice Ellsworth was elected the Chief Judge, but declined the position. This could hardly have been unanticipated, as he had, but five years before, after a distinguished public career, resigned the Chief Justiceship of the Supreme Court of the United States, in order to retire to private life. Judge Ellsworth was a leading member of the convention which framed the Constitution of the United States, and did much to secure that equality of representation in the senate, which was to be forever the great bulwark of the smaller States. He afterwards

rendered signal service to the country by drafting the main provisions of the Judiciary Act of 1789, under which the courts of the United States have been successfully administered, with few changes, for more than a hundred years.

The appointment of Chief Judge of the Superior Court and Supreme Court of Errors was now given to Stephen Mix Mitchell, LL. D., who had been an Associate Judge of the Superior Court since 1795, and as before stated, had previously, as an Assistant, been a member of the Supreme Court of Errors for several years. He had served with distinction in the Senate of the United States, as the successor of Roger Sherman, where he did much to confirm the title of Connecticut to the "Western Reserve" in Ohio. The three new Judges, added in 1806, were Nathaniel Smith, one of the "seven lawyers," who had so long controlled the old Court, and previously a member of Congress; Jeremiah G. Brainard, (Yale College, class of 1779) and Simeon Baldwin, (Yale College, class of 1781) who had just returned from serving a term in Congress. The vacancy occasioned by Judge Mitchell's promotion was shortly afterwards filled by the election of Roger Griswold, LL. D., (Yale College, class of 1779). He served but two years, and then returned to the active participation in political affairs in which he had taken a distinguished share, as a member of Congress, for ten years from 1795 to 1805, during which period he had been offered by President Adams a seat in the Cabinet, as Secretary of War. After he left the bench he became Lieutenant Governor and Governor of the State, and was one of the strongest pillars of the Federalist party in its declining years.

The Supreme Court of Errors, from the date of its original constitution, was given jurisdiction over writs of error only; but as the judges, under the new scheme of

reorganization, were all also actively engaged in circuit work, they agreed among themselves to further, so far as they could, the hearing of such motions for new trials as might be filed in the several counties, before the court *in banc*, at its annual session. The counsel were usually glad to agree to this course, and the result soon was—aided by a Rule of the Supreme Court of Errors, adopted in 1807, which forbade the allowance of bills of exception thereafter—that all objections to rulings of the Superior Court came to be taken by a motion for a new trial, based on a finding of facts by the Court, and that such motions were reserved for the consideration and advice of the Supreme Court of Errors. This advice, when given, was deemed obligatory on the Superior Court.

At present all cases coming to the Supreme Court of Errors go up either by writ of error, appeal, or reservation for advice on a finding of facts. An appeal takes up only points of law, the conclusions of fact found by the Court below being final. If error has been committed in drawing such conclusions of fact, the appellate Court has, by statute, certain powers as to correcting the finding.

By statutes passed in 1809 and 1815, the English practice was adopted, of requiring the Judges of the Supreme Court of Errors "each one to give his opinion publicly with the reason thereof, at the time they make known, or pronounce their judgment or determination."

The third volume of Day's Reports is the beginning of the real history of the Supreme Court of Errors of Connecticut. For the first time it was wholly composed of trained Judges, giving their lives to judicial engagements. Throughout this volume, and the first part of the next, the former usage is followed of recording the opinion simply as that of the Court; but from page 129 of the 4th of Day, beginning with the June Term, 1810, the statutory

rule having come into effect, the judges gave their opinions severally, and that of each is so reported. It may deserve remark that in the first case decided, there was a lengthy dissenting opinion.

The statute referred to was repealed in 1831, since which time the opinions of the Court have been given in writing by one of the judges, in the manner usual in American courts of last resort.

John Cotton Smith, LL. D., (Yale College, class of 1783) took his seat on the bench in 1810, as the successor of Lieut. Gov. Griswold, and soon left it to succeed Gov. Griswold again, first as Lieutenant Governor, and then as Governor. Judge Smith had served three terms in Congress, and was somewhat distinguished for his literary attainments. He was an active member of the Connecticut and Massachusetts Historical Societies, and a corresponding member of the Society of Northern Antiquarians, of Copenhagen. Of the senior judges, Tapping Reeve, LL. D., (College of New Jersey, class of 1763) had been the founder, in 1784, of the Litchfield Law School, the first law school established in America, and continued his instruction there until 1820. He was the author of a well known treatise on the Law of Domestic Relations, and was the pioneer in the agitation which led to the reformation of American law in regard to the property of married women.

Next in seniority came Zephaniah Swift, LL. D., (Yale College, class of 1778) to whom more than to any one else Connecticut owes whatever of completeness and symmetry attaches to her system of jurisprudence. He had served in Congress, and accompanied Judge Ellsworth on his mission to France, in 1799, as his secretary. In 1795–6, he had published, at Windham, the valuable historical summary known as the "System of the Laws of the State of

Connecticut," in which he did not hesitate to criticise unsparingly whatever seemed amiss in them, and to point to the proper remedy. In 1810, he published a meritorious treatise on Evidence, and in 1820 he was one of the commissioners who revised the statutes of the State, and brought all of them that were deemed worth preserving, within the compass of a small volume. The last five years of his life were well spent in composing what he modestly termed a "Digest of the Laws of the State of Connecticut," but which is in fact a terse compendium of the common law and the principles of English chancery, accompanied by explanations of whatever is peculiar to the local law of his native State. This book remained for half a century the indispensable textbook of every Connecticut law student, and was, from the first, favorably received in the country at large, as a clear presentation of the great features of American law and judicial practice.

John Trumbull, LL. D., (Yale College, class of 1767) came next in seniority, on the bench. His early life was largely given to literature and poetry, his best known works being "McFingal," and the "Anarchiad," a lurid picture of the evils to be contemplated, should the political principles of Jefferson displace those of the Federalist party. His services as a Judge of the Superior Court began in 1801.

William Edmond, (Yale College, class of 1777) had served in Congress, and received his election as Judge in 1805, before which he had been one of the "seven lawyers" in the old court.

In 1811 Gov. Smith was replaced by Jonathan Ingersoll, LL. D., (Yale College, class of 1766), who had been on the bench of the Superior Court from 1798 to 1801, and now returned for a few years, after which he re-entered the field of political life, as Lieutenant Governor, and was one

of those who did most to secure the final overthrow of the Federalists in Connecticut.

In 1811 a statute was passed that no person over seventy years of age should be appointed by the legislature to any civil office, except that of a justice of the peace. Chief Justice Mitchell was retired, under this law, in 1814, and Chief Justice Reeve, who succeeded him, in 1815. Judge Swift then became Chief Justice, and two new associate judges were elected.

Of these, Calvin Goddard (Dartmouth College, class of 1786) had served in Congress, and had recently been a conspicuous member of the Hartford Convention. The other, Stephen Titus Hosmer, LL. D., (Yale College, class of 1782), had been one of the former Court of Errors, in the capacity of an Assistant, and was afterwards Chief Justice from 1819 to 1833. His style of composition was always vigorous and pointed, and for many years he led the Court to an extent that few in a similar position have attained in any State; giving a separate opinion in almost every case.

James Gould, LL. D., (Yale College, class of 1791), joined the court in 1816, and brought to it rare gifts of statement and discrimination. He was now the leading instructor in the Litchfield Law School, where he labored for nearly half a century, John C. Calhoun being one of his pupils. His work on Pleading is still a classic.

The toleration party, led by Jonathan Ingersoll and Oliver Wolcott, carried the State in 1818. It had been a long struggle of the people against the legislature, and the people had triumphed. They found the bench mainly in the hands of the Federalists, and it was natural that the majority should desire a larger representation there. The judges had always been annually appointed, for though the Revision of 1784 declared that they should hold their offices during the pleasure of the Assembly, the Assembly

preferred to manifest its pleasure in regard to each, anew, every year, and the statute itself was repealed in 1794. Judges Baldwin and Goddard, who were well known Federalists, were dropped, and their seats given to two Tolerationists, or Republicans, John Thompson Peters, (Yale College, class of 1789), and Asa Chapman (Yale College, class of 1792). Judge Gould was next replaced for the same reasons by William Bristol, (Yale College, class of 1798), who resigned in 1826 to take the place of Judge of the District Court of the United States, and was succeeded by James Lanman (Yale College, class of 1788), who had just completed a term in the United States Senate.

The Constitution of the State, adopted in 1818, made the term of office of the Judges thereafter appointed last during good behavior, or until they reached the age of seventy. This prolongation of their terms was immediately followed* by a reduction in their number to five.

In 1855 it was enacted that thereafter the Court should consist of three Judges only, provided that all then in office might continue to sit until the expiration of their terms; but in 1863 this plan, which had been found inconvenient in practice, was abandoned. Excepting during these eight years the full Court has always been constituted of five judges since 1818.

The bitterness of party feeling which accompanied the downfall of Federalism had, in 1826, so far passed away that David Daggett, LL. D., (Yale College, class of 1783), who had been a Federalist of the Federalists, both at home and in the Senate of the United States, as well as one of the "seven lawyers" of 1804, was put by the side of Judge Lanman, and in 1833, during his last year of service, was made Chief Justice. He was a ready writer, and one of the most noted of the political pamphleteers of his day.

*Session Laws of October Session, 1818, Chap. I.

Soon after the Yale Law School was established in 1824, he became an instructor there, and was Kent Professor of Law at Yale College from 1826 to 1848.

Thomas S. Williams, LL. D., (Yale College, class of 1794), came upon the Court in 1829 and was Chief Justice from 1834 to 1847. Clark Bissell, LL. D., (Yale College, class of 1806), afterwards Governor of the State, also served ten years from 1829. In 1833 Samuel Church, LL. D., (Yale College, class of 1803), who had been a leading Tolerationist in 1818, came into the Court, and was Chief Justice from 1847 to 1854. His successors in the position have been Henry M. Waite, LL. D., (Yale College, class of 1809), father of Chief Justice Waite of the Supreme Court of the United States; William L. Storrs, LL. D., (Yale College, class of 1814), who, while a member of the Court, was also one of the Professors at the Yale Law School; Joel Hinman; Thomas B. Butler, (M. D. Yale, class of 1828); Origen S. Seymour, LL. D., (Yale College, class of 1824); John D. Park, LL. D., and Charles B. Andrews, LL. D., (Amherst College, class of 1858) the present incumbent. Chief Justice Butler had a genius for definitions. That which he gave of waiver,—"the intentional relinquishment of a known right,"—has probably been as often quoted as any legal definition of modern times. His reading also on *de facto* officers, in State v. Carroll, 38 Conn. 449, has been often pronounced the clearest which has ever been produced.

Among the best known of the associate judges during this period, who have passed away, were Roger Minott Sherman, (Yale College, class of 1792), a nephew of Roger Sherman, and the first lawyer of his time at the bar of the State; William W. Ellsworth, LL. D., (Yale College, class of 1810), a son of the Chief Justice, who was Governor of the State from 1838 to 1842 and twice declined an election

to the United States Senate; Henry Dutton, LL. D., (Yale College, class of 1818), who was Governor of the State, one of the revisers of the statutes on three different occasions, the author of a new edition of Swift's Digest, and for over twenty years Kent Professor of Law at Yale, and the principal instructor in the Yale Law School; and La-Fayette S. Foster, LL. D., (Brown University, class of 1828), who had been the President *pro tempore* of the United States Senate, and acting Vice President during Andrew Johnson's administration. The judge who had the longest term of service was Elisha Carpenter, who sat from 1866 to 1894. The present associate judges are David Torrance, (who is also Professor of Evidence in the Yale Law School); Simeon E. Baldwin, LL. D., (Yale College, class of 1861, and who is also Professor of Constitutional Law in the same school); William Hamersley, LL. D., (who is also Lecturer on Constitutional Law in Trinity College), and Frederick B. Hall, (Brown University, class of 1867).

In 1856, by a Constitutional Amendment, adopted by a small majority—7290 votes against 6062—the term of office of the judges thereafter to be appointed was reduced to eight years.

Pursuant to a recommendation from the State Bar Association, another amendment was adopted in 1880, by which, while their election remains in the hands of the General Assembly, all nominations must come from the Governor.

The growth of the State, and the creation of several inferior courts, have required, from time to time, additions to the judicial force, and there are now, in addition to the five judges of the Supreme Court of Errors, eight judges of the Superior Court, besides a number of judges of Courts of Common Pleas, District Courts and City Courts. Sev-

eral terms of the Supreme Court are now held in each of three judicial districts into which the State is divided, and a case is generally disposed of and the opinion filed within six months from the time when it is taken up from the court below. While the judges of the Supreme Court of Errors are also still judges of the Superior Court, their engagements are such that they have been relieved by statute from the performance of any circuit duty, except in case of special emergency. It has been the opinion of many jurists that to keep a court of last resort best in touch with the community, it is desirable that its members should pass part of their time in the trial of causes in courts of original jurisdiction, but the contrary opinion has found most favor in Connecticut from an early day. Chief Justice Swift expressed it thus in his "System," (Vol. I. p. 101), in referring to the Supreme Court of Errors, as it then existed (1795), the Governor, Lieutenant Governor and the Assistants being the Judges:

"To this Court nothing appears but the facts as stated and considered in the pleadings, which gives them the fairest opportunity to investigate and decide the abstract principles of law, without that bias and prejudice which imperceptibly operate upon the minds of courts, who are equally concerned at the same time in the discovery of the truth of facts, and the determination of points of law."

The regular hours for the sessions of the Court have of late years been from 10 A. M. to 1 P. M. and from 2 to 4 P. M. At 4 P. M. the Judges go into consultation. It does not sit on Mondays or Saturdays.

The Court was fortunate in retaining the services of Thomas Day, LL. D., (Yale College, class of 1797), as its Reporter from 1805 till 1853, by which time to the five volumes of "Day" were added twenty-one of the Connecticut Reports. He was a master of English, a careful student of history, familiar with the statutes of the State, of which he had been three times one of the revisers, and did whatever came under his hand with fidelity and discrim-

ination. Three volumes were then prepared by William I. Matson (Yale College, class of 1833), and from that time to the close of the year 1893 the Reporter was John Hooker, (Yale College, class of 1837), who brought the series down to and through Vol. 62. His purity of style, close powers of analysis, and quick appreciation of the important and the unimportant, made his work of great value to the Court and the profession. His successor was James P. Andrews, (A. B. Yale College, class of 1877, LL. B., Yale Law School, 1879), the present incumbent.

THE SUPREME COURT OF ERRORS AND APPEALS OF CONNECTICUT.

BY CLARK BELL, ESQ., OF THE NEW YORK BAR.

I know of no better way of adding to the historical sketch prepared by Judge Simeon E. Baldwin, of this court, than to report some remarks from others, made at a complimentary dinner to the Judges of the Supreme Court of Errors and Appeals of Connecticut, at Delmonico's, April 5, 1890, by the Saturday Night Club, of New York.

After the cloth was removed, the President, Mr. Clark Bell, made the opening address. He said:

GENTLEMEN: The distinguishing characteristic of the American system of government, that which marked by a comprehensive, and I may say luminous light, the boundaries and limitations of the power of the judiciary, from what had hitherto been its well-defined status in English-speaking countries, was one of the most important fruits of the American Revolution of 1776.

The theory of the new government was based upon principles that had been the corner-stone of the faith of those men who created the New England, of the first part of the seventeenth century, which ripened into fruit in the latter part of the eighteenth, as the United States of America, under a constitution based upon a declaration of rights, which received the approval of all thoughtful students of the science of government, as well as lovers of liberty throughout the world.

The representatives of the people to make the laws—with the concurrence of the executive—the executive to execute the laws, and the judiciary to administer them, was that trinity of power and authority which, in both nation and state, formed the sound basis of our liberties.

Higher than the legislative power, higher than the executive, was the pow r of the judiciary, because it passed upon the constitutionality of every act of the legislature, and every act of the executive was subject

to review, rescission, and even reversal, by the Supreme Court of the State.

Respect for the laws, for the written constitutions, and for the judiciary, has been the marked, pronounced and universal public sentiment in this country, since the adoption of the Federal Constitution, and the organization of that august tribunal with its wondrous powers, the Supreme Court of the United States.

Realizing this grand sentiment of respect for the judiciary, with the highest appreciation of its relation to the public weal, we esteem it not only a high honor, but a great privilege and pleasure, in the Metropolitan city, to pay this tribute of respect and homage to the members of the highest judicial tribunal of a sister state of the American Union, to the Judges of the Supreme Court of the State of Connecticut.

When, gentlemen, we reflect upon the conspicuous part that state has born in the history of our common country, on the long line of lustrous and honored names that have adorned the Supreme Court of that state, and graced its bench, you will understand how, in this presence, I can assure you of the sincere pleasure with which, in the name of this Club, I welcome this honorable body to this, the first occasion, where a quorum of that court has convened within the city of New York.

Gentlemen, I propose the health and continuance of that renown that has ever characterized the Supreme Court of Connecticut, and to connect that sentiment with the name of the distinguished citizen who now presides over its deliberations, the Hon. Chas. B. Andrews, Chief Justice of the Supreme Court of Connecticut.

Chief Justice Andrews responded as follows:

MR. PRESIDENT: The Judges of the Supreme Court of Errors, of Connecticut, esteem it a very high honor to be the guests of the Saturday Night Club In their behalf I beg to thank you and the gentlemen of the club, for the compliment of the invitation, and yourself for the flattering terms in which you have mentioned the court of which they are members. The pleasure of the occasion is heightened to us, that so many honorable judges from other jurisdictions, and so many members of the bar, are also present, brought by your invitation to partake of the same generous hospitality.

You give it, Mr. President, as the result of your reflections, that the judicial power is the highest in the trinity of the governmental powers. I apprehend that most thoughtful persons will agree with you for the reasons you have given. In every government of laws, the courts hold the most important place. The legislature may be nominally higher than the judiciary; but in the actual experience of life, the courts touch the citizen more frequently and more nearly, than the law-making power. The legislature ordinarily does no more than make rules in the abstract; the courts apply them to concrete cases. To the parties in any given case, that seem only to be the law, which the court decides to be law, for

the reason that the court must pas upon the facts, as well as interpret the rule made by the legislature.

In one of those fervid bursts of eloquence, for which Mr. Rufus Choate was so widely known, he exclaimed: "Let us repose secure under the shadow of a learned, impartial and trusted judiciary, and we need no more. Given that, and it matters little what constitution you have, or who makes the laws."

Thinking only of that former time, when no one living was connected with the courts, I cherish the belief that the judiciary of Connecticut has measurably fulfilled for the people of that State, such an high ideal. To some extent, doubtless, this is due to the fact that there has been no great city in the state, so that the questions, vexatious and dangerous, liable to arise from a vast, divergent and largely unlined population have never brought disturbance into the courts. Perhaps, also, the cities of New York, on the one side, and Boston on the other, have drawn from us other sources of trouble. In another degree the good fortune has come from the character of its own people. Connecticut was a Puritan colony, even more so than Massachusetts. It has always been a Puritan state. The Puritan, with all his wilfulness, his self-assertion, his theology and his dogmatism, was a conservative citizen. Respect for the powers that be was a part of his creed. To be sure, he intended to have the powers on his side most of the time, and never scrupled to quarrel with them if they were not; but, notwithstanding, he had the thrifty habit of economy; and the money-making man is compelled to have a respect for law; and this respect for the law has continued to this day to be a character of the people of that state. But mainly the result has come from the judiciary itself. In the original frame of government of that state, all judicial power was exercised by the legislature. The legislature continued to hear cases on appeal until the year 1784. In that year it was enacted that the Lieutenant Governor and the Council should constitute the Supreme Court of Errors. In 1793 the Governor was added to the court, and made the presiding judge. Eight members were necessary to form a quorum. It was soon the subject of complaint, that the members of this court were chosen with reference to their qualifications as legislators rather than as judges. In 1806 an act was passed which transferred all the judicial power of the Governor and Council to the then Superior Court, and it was made the Supreme Court of Errors. That was the origin of the Supreme Court of Errors as it now exists. Jesse Root was at that time Chief Justice. Including its then members, and all who have since been appointed, there have been forty four members of that court. Thirteen of its deceased members have been Chief Justices—Jesse Root, Stephen Mix Mitchell, Topping Reeve, Zephaniah Swift, Stephen Titus Hosmer, David Daggett, Thomas Scott Williams, Samuel Church, Henry Mateon Waite, William Lucius Storrs, Joel Hinman, Thomas Belden Butler and Origen Storrs Seymour.

These were notable men in their day, and came up to the full standard of being learned, impartial and trusted. The memory of every one of them is cherished by the people of Connecticut with affectionate pride and veneration. They were no more than a fair indication of the other members of the judges. It is little wonder, then, that the people of that

state have reposed secure under the shadow of their own trusted magistracy. Nor is it a wonder that the court held a creditable place among other like courts in the nation.

Of the individual character of these and other of the judges, and of the later court, others can speak much better than myself.

Prior to 1819, all the judges were appointed annually. There was a statute which provided that the judges should hold office during the pleasure of the legislature; but the legislature continued to manifest its pleasure by annual elections, until the adoption of the constitution, in 1818. By that constitution the judges of the Supreme and Superior Courts were to hold office during good behavior, subject to impeachment and to be removed by address of two-thirds of each house of the general assembly. Another clause of the constitution declared that no judge or justice of the peace should be capable of holding office after he arrived at seventy years of age. These two provisions of the constitution have given rise to the suspicion that in Connecticut a man cannot behave well as a judicial officer after he is seventy years old.

In 1855 there was a change by which the judicial term was made eight years. The legislature has always elected all judges. Another change, in 1880, has so made it that the legislature elects the judges upon the nomination of the Governor.

In the general field of law, the state of Connecticut deserves at least a passing notice. Every lawyer in the country has heard of the Litchfield Law School. More than to any other, and perhaps more than to all other agencies, it is owing to that law school, that the law in these United States has so much of uniformity, consistency and symmetry as it has. That school was founded by Topping Reeve in 1784. When Mr. Reeve became a judge of the Superior Court, in 1789, he associated with himself James Gould as a teacher. They continued the school together till 1820. Judge Reeve died in 1822. Judge Gould continued it till 1833. During its existence there were educated nearly two thousand young men, coming from every one of the then states. Among the number were those who afterward became judges, chief justices and prominent lawyers and statesmen in most of the states—Chief Justice Baldwin, of Georgia; John C. Calhoun, John M. Clayton, of Delaware; Daniel S. Dickinson, of New York; Levi Woodbury, of Maine; Theron Metcalf, of Massachusetts; William Halstead, of New Jersey; Washington Poe, and very many others.

The earliest volume of reports of decided cases published in America was in Connecticut, by Ephraim Kirby, at Litchfield, in 1789. It has erroneously been said, that the first volume of Dallo's reports was the earliest. Dallo's first volume was not published until 1790.

Of Topping Reeve I should speak a little more. He was much more than an ordinary man. He was born at Brookhaven, L. I., in 1744; graduated at Princeton in 1763. He studied law with Jesse Root, at Hartford; settled at Litchfield in 1772, and began his law teaching in 1784. He was a born teacher. Every one of the pupils who came under his instruction became at once inspired with a love of study, with the grandeur of the science and the dignity of the profession. Jesse Root, who was the instructor of Judge Reeve, was himself a distinguished man,

He was born in Coventry, Conn.; graduated at Princeton, in 1756. He was a preacher until 1763, when he became a lawyer in Hartford. He raised a company for the army and became a colonel. He was a member of the Continental Congress for four years. He was a judge of the Superior Court after 1788. He published two volumes of reports. Another Chief Justice was Zephaniah Swift, who was the author of Swift's Digest. The older lawyers in all those states, which founded their law upon the common law, have doubtless heard of this book. It was exceedingly valuable as an introductory book for beginners, and an excellent handbook for professional work.

The work of the court in Connecticut is recorded in the volume of reports which I have mentioned, in five volumes of Day's Reports, and in fifty-seven volumes of Connecticut Reports. In them there are no startling cases. They record the litigated cases of a people usually happy, and intent on the arts of peace; but I feel sure that they teach constantly the principles of that science of which Lord Erskine said: "They are founded in the charities of religion, in the philosophy of nature, in the truths of history, and in the experiences of common life."

Mr. Clark Bell, introducing the next speaker, the Hon. David Dudley Field, said:

It is fitting on such an occasion, when we meet to pay our highest tribute to a state like Connecticut, and a tribunal like her Supreme Court, that we should look in retrospect, at the century that has elapsed since the fathers founded the republic, at the record of the bench and bar, that has made the name of Connecticut lustrous in the judicial annals of our country.

It is our grand good fortune to have with us to-night the Nestor of the American bar, who was born in Connecticut, and whose useful life has covered nearly all the years of our present century. His eye has seen much that is far in the past, and besides that love and affection he bears to his birthplace, are the reminiscences of the men conspicuous in the judicial annals of his native state, who have been upon the stage of action during the eventful years of the present century.

I have been favored with his personal acquaintance, and I believe with his friendship, for more than twenty-five years, and have looked with admiration upon that magnificent physique, which has been the wonder of the bar, sparing him for labors of the highest consequence and importance, both state, national and international.

When we shall have separated, when this banquet will be but a memory and a reminiscence, that which will give us most pleasure, the reminiscence we shall prize among the highest, will be that of the presence of the Hon. David Dudley Field, whose illustrous name I will connect with the toast, "Reminiscences of the Bench and Bar of Connecticut."

Mr. David Dudley Field responded as follows:

MR. PRESIDENT.—When you did me the honor to invite me to this banquet, I was quick to accept the invitation, because I expected to meet the judges of my native State, of which I bear so pleasant a remembrance. I find however representatives from other seats of justice come to greet the judges of Connecticut. You have here a judge from the Dominion of Canada, over which shines the mild light of Arcturus, and on the other side a representative from Texas where glows not the lone star of other days, but the bright constellation of the Southern Cross. You have judges from the neighboring State of New Jersey, from the further State of Pennsylvania and from Delaware, about which I may use the language of John Quincy Adams, speaking of Rhode Island, that "She is to be measured not by the smallness of her stature, but by the loftiness of her principles." All these eminent judges are here to join in salutation to the judges of Connecticut, and to them therefore our attention is to be chiefly directed.

I am old enough to remember the judges of Connecticut when they sat under the authority of the Colonial charter, that charter which was hidden in the famous oak of Hartford to escape seizure by an emissary of the King of England. I was present at the trial in Haddam, my native town, of a man for murder. Trumbull was the Judge, that Trumbull who wrote "McFingall," and who being elected for a single year, as was then the rule, was re-elected for as long as he lived. He was neatly dressed, wearing ruffles in the bosom, and at the wrists, and was in trim knee breeches.

I remember this incident of the trial. The crowd was so great that the court was adjourned from the court house to the church, then called the meeting house. The jurors sat in the square pews. One of the jurors, a respectable farmer of the neighborhood, thinking that he had detected some mistake of the counsel, rose to correct him, when the counsel retorted that the juror was the one mistaken, and added "Let him that thinketh he standeth take heed lest he fall." The prisoner was convicted and hung at Middletown. I went up to see the execution, and when I reached the place train bands were marching through the streets playing their music, as if for a great festivity. A sermon was preached to a crowded house, and the prisoner was then taken, dressed in a shroud, to a hill near by, and in the presence of thousands of spectators was executed. These scenes were of course impressed strongly on the memory of a boy. I remember the session of the county court at Haddam, when the judges, headed by the sheriff, marched in order from the tavern to the court house. I remember seeing in court David Daggett, wearing white top boots, and I met Roger Minot Sherman, driving into the village in a sulky. I remember Staples and Hungerford. The latter went into court one day with a bible under his arm, to show from the first chapter of Genesis, as authority in an insurance case, that the day began at sunset—"and the evening and the morning were the first day."

In those days parties ran high in Connecticut between the Democrats and the Federalists—"Demos" and 'Feds"—as they were called for shortness, and contempt as well. Let me recount two anecdotes:

The Reverend Dr. Backus riding along the highway stopped at a brook to water his horse, when another rider came up from the opposite side, and thus addressed the good man: "Good morning, Mr. Minister." The latter replied, "Good morning Mr. Democrat; how did you know that I

was a minister?" "By your dress; how did you know that I was a Democrat?" "By your address."

At another time Dr. Backus, being prosecuted for a libel upon Mr. Jefferson, was taken from his home to Hartford to be bailed. The minister and the marshal rode of course, for that was not the heyday of vehicles. The minister rode very fast, so fast that the marshal called out after him: "Dr. Backus, Dr. Backus, you ride as if the devil were after you." The Doctor, turning his head, replied, "Just so."

Mr. President, Connecticut has been often abused for the frugality and thrift of its people, and called in derision the nutmeg state. I remember hearing that a New Yorker once put in his will an injunction against any child of his being educated in Connecticut.

An Episcopal clergyman removing from New York into a Connecticut town was actually boycotted. The people would not sell him anything to eat, and I believe he returned for food and shelter to the hither side of Byram river. I remember such a joke as this current in New York, that they had a singular habit in Connecticut when a man cast up his accounts with his neighbor and gave him a note for the balance, he used to exclaim: "Thank God, that debt is paid." Some of the people have singular tastes now and then; as for example, there is a hill behind East Haddam that used to be called "Stagger-all-hill," but inquiring the other day, I was told that its name was now "Mount Parnassus."

They may say all these things if they please, but Connecticut has no public debt, or a very small one at most, and her people are industrious, educated, polite to strangers, jealous of their rights and brave enough to defend them. I remember hearing Mrs. Fanny Kemble say, some years ago, of the twelve hundred thousand people then inhabiting Massachusetts, that, taking them all in all, she thought they were the foremost twelve hundred thousand people living together in the world, and I can speak in similar terms of the inhabitants of Connecticut, as really a part of the same people.

In conclusion, Mr. President, may I without affectation utter these words of love for my native state, its scenery and its people:

Flow on gentle river, shine on rugged and wooded hills, smile on green meadows basking in the sun, and you, brave people, who dwell amid the scenes, prove yourselves ever worthy of your progenitors, and flaunt high as you will, the old banner with its hopeful and trustful motto—Qui transtulit sustinet.

Mr. Bell introduced as the next speaker Hon. Edward M. Paxson, Chief Justice of the Supreme Court of Pennsylvania. He said:

"The state of New York looks with pride, and takes pleasure in' all that tends to the welfare of that splendid state, which touches our southwestern border.

We of the city of New York, when welcoming to the hospitality of our city the distinguished men who honor us with their presence this evening, look to the great city of Brotherly Love, and to the Keystone state,

to aid us in the honor we pay the highest judicial tribunal of a New England state.

The exalted, the commanding position occupied by our highest judicial tribunals, in the American states, the respect and confidence we feel in the pure administration of justice, has inspired this club upon this occasion, and we have good fortune to have with us, from Pennsylvania, as an honored guest, the Chief Justice of the Supreme Court of that state.

Adorning the Bar by his talent, before his elevation to the Bench, of which he is one of the most conspicuous members, I have the high honor, and, I assure you, it is with sincere pleasure that I introduce Mr. Chief Justice Edward M. Paxson, of the Supreme Court of Pennsylvania, whom I shall ask to respond to the sentiment, "Pennsylvania—Her Bench and Bar."

Chief Justice Paxson responded as follows:

MR. CHAIRMAN AND GENTLEMEN:—The Supreme Court of Pennsylvania have been under too many obligations to the learning and ability of the Supreme Bench of Connecticut in the discharge of its duties, not to make it a pleasure for me to voice the universal sentiment of the judges of Pennsylvania, in expressing on an occasion like the present, the high place that bench has ever maintained in the public estimation of my state, both at the bar and upon the bench.

I think, Mr. Chairman, that both you and the club which unites with you in this beautiful tribute to the Supreme Court of a New England state, are entitled to the thanks of the judiciary everywhere. It is a most graceful tribute.

When I recall what has been set before us at this feast, what we have already heard from that able and distinguished member of the American bar (Mr. David Dudley Field), in behalf of the state of his nativity and its bench, in the past, and what is to come from the distinguished representatives of bench and bar from the New England and Middle states, who are present at this banquet, I feel sure you will concur with me that Connecticut has well deserved the distinction here extended to her, which the learning and the ability of her judges have commanded from bench and bar throughout the American Union.

It is occasions like the present and like the recent centennial celebration of the organization of the Supreme Court of the United States in your city, which bring judges and lawyers from the various portions of the Union together at a banquet, to meet in social and fraternal intercourse, that aid both bench and bar to a personal knowledge of the men whom they have hitherto known only through the public press or in the reports, or from their written decisions and opinions. It is for this reason that while joining for my associates of the Supreme Court of Pennsylvania, to which tribunal I am indebted for this honor, with the greatest pleasure, in paying this tribute to the Supreme Court of Connecticut, so well represented by the group on the menu of the banquet, I feel under none the less obligation to the president of this club and his colleagues, whose faces also encourage us from the second group, for bringing us to-

gether; and I recognize, gentlemen, in the legal members of the Saturday Night Club those who are among the foremost men not alone of the bar of the City of New York, but of the whole country.

Your Chairman, gentlemen, well expresses the power, the dignity and the place of the Supreme Court in the autonomy of the state governments in the American Union. I fully agree also in his estimate of the popular confidence in the higher judicial tribunals. The American judges not alone of Connecticut, but of the whole country, have ever held high the banner of judicial purity and judicial independence, and the records of the decisions of the American courts stands as a monument to the learning, the industry and the judicial independence of the American bench. It is for this reason that the American people so confidently and so implicitly trust the American judiciary. I thank you, Mr. Chairman, for the high honor and compliment of the invitation to join with your club in paying tribute to Connecticut judges, whom I now meet for the first time, and assure you I shall recall with the greatest pleasure this occasion as one of the happiest events of my life.

Mr. Bell introduced as the next toast, "The Supreme Court of Delaware," and read letters of regret from Chief Justice Comegys and from Chancellor Saulsbury. He said:

"The Saturday Night Club, gentlemen, invited the entire bench of Delaware to meet the honored guests of the evening, as it did of Rhode Island and Ohio. We have the letters of regret from the judges of 'Little Rhody' and from the Buckeye judges, which explain their absence by the session of their courts; but we have with us one of the Delaware bench, who comes to aid this club in giving appropriate honors to the judiciary of Connecticut.

"This club and city gentlemen, has a warm corner nearest the heart for Delaware.

"We placed her silver-haired governor at the head of that stately procession of the governors of states that marched up our avenue in that wondrous centennial celebration. Who will forget the gallant bearing, the flowing silver locks, and genial face of Governor Biggs, of Delaware, on that occasion? Some one has said that Delaware, like Rhode Island, may be likened to the 'sixpence' among six cents—'the smallest, the brightest, and worth all the rest.'

"I shall call to respond to this toast the junior member of the Supreme Court of Delaware, who has won his spurs at the bar of his state, and worthily graces a bench adorned by the splendid names of Comegys and Saulsbury, the former of whom accepted conditionally, and the latter was kept away by failing health.

"I have the pleasure of introducing the Hon. Ignatius C. Grubb to respond to the sentiment of the Supreme Court of Delaware."

Judge Ignatius C. Grubb, of Delaware, responded as follows:

MR. PRESIDENT:—Upon being called upon to respond to your toast of the Bench of Delaware, I realize the truth of the saying, "It is the unexpected that usually happens," which is verified in this instance.

Until this moment I had no notice from you—nor even a hint—that I would be expected to make a speech; hence I feel as Patrick did when he caught the bear—that I shall be grateful to any one who will help me to let it go.

Mr. President, you have really done great violence to a trustful and confiding nature, and impaired, *pro tanto*, my confidence in your administration. But still you are entitled to the benefit of this extenuating circumstance: By concealing, until now, your intention to call upon me, you have not impaired my appetite, nor marred my enjoyment of your generous feast, as so often happens to those who are informed in advance of the oratorical ordeal they will be expected to endure.

I regret that the duty of speaking for the Bench of Delaware has fallen upon the member of that body least worthy to represent our judiciary. I had expected to find our Chief Justice here to-night, and I sincerely deplore that we have not present on this memorable occasion either our Chief Justice or our Chancellor, that you might be convinced that the best representatives of the Delaware bench could successfully rival, both the majesty of physical appearance, and the dignity of mien, of even the handsome and distinguished Chief Justice from our neighboring state, who sits beside me.

But I know that I speak of the Delaware judiciary, and truly represent them, when I say that we profoundly appreciate the courtesy and the hospitality shown to us by the Saturday Night Club, through its invitation to share with it and its other guests such a rare feast as we find here to-night.

At the recent magnificent banquet given in honor of the Supreme Court of the United States, upon its centennial anniversary, I heard one of the gifted orators upon that occasion wittingly declare to the vast assemblage of the bench and bar there present: 'We are all lawyers—except the Judges."

On this occasion I feel that I can truly declare that we are all both judges and lawyers. We are judges of both good company and good cheer, as our presence here, at this late hour, attests; and we are all lawyers, in full practice at the bar, as these vacant bottles and empty glasses—particularly the great "loving cup" in front of my handsome friend at my right—demonstrates by a continuous chain of circumstantial evidence, which is absolutely conclusive.

As the lawyers often assert, and as the judiciary sometimes admit, "*Res ipsa loquitur.*" Therefore it is needless for me to say more. Consequently I shall yield the floor to the next victim of President Bell, who so worthily and so gracefully fills the executive chair to night; and so faithfully and so zealously—and I may say, impartially,—pursues his administrative policy of "killing us with kindness."

Before doing so, however, my heart bids me say to him: May your life be as happy, and as prolonged, as we have found one of your Saturday nights, and may your club have a perpetual succession of such presidents and such members as those are who have honored and entertained us here this evening.

Mr. Bell said:

GENTLEMEN:—Before calling others of the judges among our distinguished guests, I know you would never forgive your chairman if he failed, now that we have a quorum present of the Connecticut bench, to call to his feet one of the oldest judges, in term of service, one of the true sons of Connecticut, who comes here as one of the staff of the Chief Justice, and who is really responsible for the occasion which brings us together.

It was my good fortune to be assigned by the comm'tte, at the recent Judicial Centennial, to take charge of and escort the judge whose name I am about to pronounce, and it was due to his charm of manner, and the pleasant acquaintance thus formed on that occasion, that has led up to the feast of this evening.

A man of the people, learned in the rudiments, the science and the philosophy of the law: of industry, full of the courage of his convictions, and an intense lover of justice for justice sake, Connecticut has been fortunate to have secured upon her bench Judge Elisha Carpenter, of Hartford. I shall not ask him to respond for the Supreme Court of his native state. Tha' has already been done by the learned Chief Justice. But I will as him to speak "For the State of Connecticut, and for the people of Connecticut;" for I know that Judge Carpenter is of that Puritan stock and race who believe in the people, and is in full sympathy with the faith of the men of Plymouth Rock, who sought to found on these shores, not only "a church without a bishop," but "a state without a king—that he is one of the New England Puritans, who have moulded the stern granite of their convictions into the foundation and corner-stones of American constitutions.

Judge Elisha Carpenter responded as follows:

MR. PRESIDENT AND GENTLEMEN:—I am somewhat out of my place in attempting to speak on an occasion like this; nevertheless, I feel that it is incumbent on me to say something—not to make a speech, for I long since retired from that business; but I propose to give utterance to a few thoughts which may not be wholly inappropriate.

I offer no apologies, no excuses; for I am persuaded that apologies and excuses are not current, and will not be accepted. Neither are words without meaning wanted. If I have anything to say, you desire me to say it; if nothing, you would prefer that I remain silent.

Your President has been pleased to refer in complimentary terms to the Supreme Court of Connecticut. Indeed, the fact that we are here is of itself a high compliment.

I desire first to express my appreciation of such a compliment. We do not appropriate it to ourselves as individuals, nor to ourselves as judges, nor to ourselves collectively as a court; but we regard it as a compliment chiefly to the people of our state. In their name, and in their behalf, I

thank you. For myself, personally, I thank you, among other reasons, for the opportunity it affords me of becoming acquainted with so many distinguished men. It not only extends my acquaintance, but it enlarges my conception of the great brotherhood to which we belong—the brotherhood-in-law. It is unlike the brotherhood of blood brothers, which Stanley found on the banks of the Congo, in the Dark Continent. There the barbarous chiefs, by a custom partly religious, largely superstitious, admitted Stanley and some of his associates into this peculiar relationship.

The initiation is one of blood. Blood is drawn from the arm of each; the arms are brought together, and the blood from the two arms is permitted to commingle. Although the initiation is a bloody ceremony, yet it signifies peace and good will.

Thenceforth the black chief and all his relations become the brother and relations of the white stranger, and the white stranger and his friends become the brother and friends of the dusky chief. Each is pledged to the other in a solemn covenant, under all circumstances to be his friend and protector; and that covenant is religiously observed. Stanley and his friends found it to be of the greatest consequence to them.

That is a relationship prompted by self-interest, self-protection. Ours, on the other hand, is a relationship prompted by a desire for mutual improvement; not as an end, but as a means to an end—the benefit of our fellow men. Nor is the element of protection wholly wanting in our case, for the brotherhood protects the worthy, when protection is needed, and aims to protect the public from the unworthy and vicious.

But to come back. I repeat, it is in a great measure to the people of our state that we are indebted for this attention. The courts of any state are, in the main, what the people of that state choose to have them. When the people love fair play, and desire that justice and righteousness shall prevail, the courts will strive to attain those ends. On the other hand, law, whether embodied in statutes, or promulgated by the courts, is an educator, and teaches practical morals. Erskine, I believe, tells us "Morals fail in the cold abstract from the pulpit, but men smart under their practical application when we lawyers become preachers." Thus it is that the people and the court act upon and support each other. The best results are obtained when the people and the courts are in harmony with each other. Without harmony it is impossible that the affairs of the state will run smoothly.

I believe that the people of Connecticut have ever been loyal to their courts, and that the courts, in turn, have been loyal to the people.

Whatever of excellence or merit there may be in our Supreme Court, to the people of the state belongs the credit. Wherein we fall short, or transgress, on us let the blame rest. I, for one, am ready to take any share of the responsibility. I am led to these reflections because I believe that our political institutions, as a rule, are such as the people choose to demand, or are willing to tolerate.

We speak of the Supreme Court of Connecticut as being the highest court in that state; of the Court of Appeals, in New York, as being the highest court in this state; of the Supreme Court of the United States as being the highest court in the nation. Well, so far as constitutions and

written laws are concerned, it is true, they are the highest courts; but in a broader and very important sense it is not true; they are not the highest courts. Over and above them all is an august, all-potent tribunal, to which they are all subordinate—a tribunal that enacts (indirectly, it is true,) and repeals statutes; makes and unmakes constitutions, and does not hesitate to overrule obnoxious decisions by the highest courts in the land. I allude to the great tribunal of public opinion. I might refer to particular cases, but I will spare you.

I have spoken of it as an all-potent tribunal. Its potency appears not only in its effects upon other tribunals, but also in its effects upon the people themselves; for it compels obedience to all law—statutory law and that promulgated by the courts, however objectionable—until the machinery of this supreme tribunal can work a repeal or reversal.

I might enlarge upon this point.

A fairly intelligent people will, in the main, be right on all questions pertaining to public virtue, integrity and uprightness in the conduct of public affairs. With such, a healthy public sentiment is almost a matter of course. The average belief of a large number of good men can generally be relied on. They may be misled; they may fall into error; for one cause or another they may be wrong; but public sentiment, like a ship in a storm, has a tendency to right itself. Like truth, it may be temporarily crushed to earth, but it will surely rise again and assert itself.

The old Roman maxim, *Vox populi, Vox Dei*, has in it a large element of truth, a philosophical foundation.

In this tribunal the maxim, *Stare decisis*, has but little weight. The people in time come to know what they want, and sooner or later they will have it. They neither search for precedents, nor regard them, especially if unsuited to their present needs.

At the same time this superintending and supervising power has great influence over all courts, in the application of this maxim. And it ought to; for it is a maxim that should never be used to perpetuate error. If a wrong decision is made, I would overrule it the next day, if I had an opportunity. Yea, more; if possible I would take back the decision and correct the error, in the same case, thus preventing present injustice and future mischief. Pride of opinion should, under no circumstances, prevent us from doing right.

This maxim should never be used so as to operate as an entering wedge to undermine and overturn well-known and well-settled principles—fundamental principles. There is great danger of this. Great care is oftentimes required not to extend the principle of a given case beyond its legitimate limits. We often go to the very verge of the law. Using such a case as a precedent for passing the line may be fraught with infinite mischief.

On the other hand, the maxim should not be disregarded so as to introduce confusion and uncertainty into the law; nor should it be disregarded when a series of decisions has become a rule of property. In short, it is a salutary maxim; but it has its limits. Its limitations should be regarded. It has its abuses, and is often misapplied. The abuses and misapplications should be avoided.

We have recently had an important matter before our court. It has

received much consideration, and has been the subject of not a little discussion. The matter at length issued in a result—a unanimous result. The same matter is liable to come before other judges. When it does, it is to be hoped that the judges will give the Connecticut precedent due consideration, and accept——a good dinner at Delmonico's.

MR. BELL said:

Let us make another digression before we call for other judges or for members of the bar of this, or other states.

We have present with us as a guest this evening one whose name has been indissolubly connected with the higher fields of professional excellence, both as a lawyer and as a judge—one who attained national renown as a jurist by his forensic triumphs, before the fame of his judicial utterances attracted general attention.

One who has reaped, and is now reaping, the highest fruits of professional success at the bar of our city, who, by his education, his culture, his learning and his achievements, is qualified to speak for the Federal judiciary, as our limits did not permit us to invite any members of that bench to this banquet.

I have sincere pleasure, gentlemen, in introducing the Hon. John F. Dillon, and to connect his name with the health of the Federal judiciary of the nation.

Hon. John F. Dillon reasponded as follows:

You will notice, Mr. President, under your peremptory ruling that every speaker shall be confined to six minutes with the intimation that he is under no obligation to occupy even that space of time, that I speak to you with my admonitory watch in my hand. First of all, I must pay my sincere respects to the guests of the evening, the Honored Chief Justice and Associate Justices of the Supreme Court of Connecticut. That state has produced a long line of illustrious judges and lawyers. Nearly forty years ago, on the banks of the Mississippi, when I was a student of the law, there was in the library "Swift's Digest of the Laws of Connecticut." I then often referred to it, and never without admiration of the ability and learning which it displayed. It gave me pleasure to hear the author referred to for his learning and ability, by some of the preceding speakers. I suppose this work has largely been superseded and not improbably by others of inferior merit. Of course, so important and extended a theme as the State and Federal Judiciary cannot even be glanced at under the time limit in which I find myself placed. I do not quite agree, however, Mr. President, with the implication in your remarks, that there is, may be, or ever can be any real antagonism between the State and Federal judiciary. Each has its own defined sphere, and it is a remarkable fact that in the full century that has just passed, although these two classes of courts derive their authority, one from the nation and the other from the states, and exercise their jurisdiction over the same territory and people, they have rarely come into conflict, and the conflicts that have ensued, have been speedily, peacefully and lawfully

adjusted. It is impossible to over-estimate the value and importance of the great subjects confined to the care of the general government and to the Federal judiciary, but it is at the same time true that the State judiciary has a more close, direct and immediate relation to the interests, the business, the lives, the property, the social relations of the people of this country than the Federal judiciary. They have more to do in moulding our jurisprudence. The law grows from below and is not mechanically fashioned from above. The most philosophical statesman and thinker of England, Mr. Burke, has said that "there are two foundations of law, equity and utility." This is true generally in every civilized community. It is especially true in the American states; and it is the delicate and high function—particularly of the State judiciary—to elaborate into the enduring products of law and justice, the crude materials of our daily experience, and to record in the books of reports, for our guidance and instruction, every step in this great process.

I have only time within the limits assigned to thank you and this club with all my heart for the honor and the privilege of being present on this most interesting occasion.

Mr. Bell said :

We invited the honored Chief Justice of New Brunswick, Sir John C. Allen, to be present at this feast. His letter of regret is among those that are read. We have, however, from that bench one of the students of the fundamental English colonial law, and a man who has been in the Canadian Parliament and Government.

It is my good fortune to have known, personally, the Hon. A. L. Palmer, of the Supreme Court of New Brunswick, and to have for him a profound admiration and regard.

He is of American, and, indeed, I may say of old New York stock, as his family were residents of Westchester county before the American Revolution of 1776.

Perhaps no man upon the Canadian bench is better fitted to speak of the Colonial Judiciary System than Judge Palmer. He has also been a close observer of Canadian politics, and well acqainted with the public sentiment in the Dominion of Canada on the question so full of interest to Americans and Canadians : that of the annexation of Canada to the United States.

His ancestors were loyalists and settled in New Brunswick.

In toasting the Dominion of Canada and her judiciary, I know the club will reciprocate the pleasure which the chair feels in introducing this distinguished jurist on this occasion.

Judge Palmer responded as follows :

MR. PRESIDENT AND GENTLEMEN:—It affords me great pleasure to join with the Saturday Night Club, and the other distinguished gentlemen here present, exercising, as they do, the important offices of governors and heads of the principal courts in the sovereign states of this

great republic, in doing honor to the guests of the evening. the Chief Justice and Associate Judges of the Supreme Court of the great State of Connecticut.

As the sole representative of the judicial bench of any province in Canada here, I may be allowed to say that I think I have cause for sincere thanks that I should be allowed to take part in the associations of such a body. All that it requires to make fast friends of the people of Canada and these United States is to become acquainted with each other, to learn each other's character and aspirations for I am persuaded that when all is known of each other, the people of both countries will discover that both are alike, high spirited, have a like love of freedom and justice so engrained in them that they may be trusted under all temptations, and would prefer to suffer wrong rather than do it. Consequently it would be impossible for them to quarrel; it is ignorance that is then to be feared. What a field for benevolent patriotism, on both sides of the line, is the devising and carrying out of some scheme that will impart the needed knowledge. Considered in that light, what an act of patriotism it was for the honored President of the Saturday Night Club, not only to invite here Sir John Allen, our Chief Justice, even so unimportant Canadian judge as myself, but also to allow me to speak for six minutes, enough time, no doubt, to impart to all present all they need to know of Canada or her people if I had the ability to do it. The President has intimated that a political union would be desirable between the two countries, and expressed a hope that I could say that such was the feeling of the Canadian people, but if I said that I would be deceiving you. On the contrary, with a full knowledge of the feelings of the great body of my Canadian countrymen, I have to say, while they have the greatest admiration of and friendly feeling towards the people of the United States, and approve of many of the principles embodied in the form of their government, there is scarcely a trace anywhere of any desire to sever their connection with the British Empire.

The most thoughtful among us, who have studied your constitution, prefer our own. And you can understand how people, who feel that Great Britain has ever been their friend and protector, and has made sacrifices for their benefit, and never forced them to give anything in return, feel the base ingratitude of dissolving their connection with her. I think that if your people knew us better, they would not make so many mistakes in this respect, but I find that not only your common people, but a great many of the best informed of your jurists and politicians, know little of the Canadian constitution, or how that country is governed. Until recently we were to small, and you too busy to attract your attention. We have the advantage over you, for our attention has been called to you from the beginning, by your importance, and we could easily study your constitution and government, for there are full treatises on them by your great lawyers and statesmen. On our constitution and government there are no treatises worthy of the name, and I can understand the disgust your young men would feel, to be asked to find out the the working of our government and constitution, by aid of the materials that are available, but until they do so, and it is understood by your people, it will be impossible to know our position, or how to deal with us in order to bring about friendliness and good feeling, that are so essential to

both our welfare and dealings, and what the true friends of either country must so heartily desire. Our constitution has many of the features of yours. Canada is composed of several provinces or states confederated together, with defined powers of legislation in each, and the courts in our country, as in yours, are called upon to decide what are the federal powers of legislation, and what the states' rights. To determine these questions we look in vain to Great Britain for any guide. Such a question does not exist, there is no limitation on the power of Parliament, all courts must obey its directions, and when an Englishman speaks of Parliament acting unconstitutionally, he does not mean that it has not the legal power to do the act so the courts could disobey it, but that it has availed itself of the legal power to pass some law, binding although it be, that they ought not to pass, according to the unwritten understanding of the people, which would justify a revolution or correcting by the people. Here, and also in Canada, it means, that there was no power to pass it, and is therefore void. To decide those questions, we are pleased to have the assistance of your great jurists.

But there is a marked distinction between your constitution and ours. Ours is simply a division of the powers of an omnipotent legislature, distributing such plenary powers between two, so that any laws would be valid if passed by both. With you there are many provisions that could not be made law, by either Federal or State legislatures without an amendment of the constitution. Again we differ, in that our courts are both Federal and State, so that there never can be any conflict between Federal and State courts.

If I had time and I thought you had patience enough, I would endeavor to point out the general workings of our constitution, but I have not. If you study it, you will be convinced that our people are as free and take as large a part in their own government as you do, and while you will continue to think (as I hope you may) that yours is the best, you will admit that ours is well adapted to secure to our people their rights as freemen, and an efficient and just administration of the law. I have another reason why I feel proud to join in honoring the bench of the Supreme Court of Connecticut, and make the acquaintance of the distinguished persons who sit on that bench, it is because I have often had occasion to use the decisions of that court, and admire the learning and sound judgment displayed in their decisions, and I assure those gentlemen, if they, or any other of the distinguished gentlemen here, should ever come into Canada and visit my province of New Brunswick, I will see that they receive a hearty reception. Lastly, I desire to thank the members of this club for the enjoyment of this princely repast and the goodly company, and you, Mr. President, for the compliment you paid me, which I attribute to your good nature, rather than to any deserving of mine.

Mr. Bell said:

The Chief Justice of the courts of the City of New York have all accepted our invitation and are present, except Judge Sedgwick, of the Supreme Court, who is ill.

By an imperative order of Mr. Chief Justice Van Brunt, of the First Department, I am directed to call upon the Chief Justice of the New York

Common Pleas to speak for that court, as well as for the Supreme Court of the City of New York.

I have the honor of introducing that eloquent gentleman.

Chief Justice R. L. Larremore responded as follows:

MR. CHAIRMAN:—The judges of New York City cordially reciprocate this welcome to the judges of the Supreme Court of the State of New York.

A state renowned in literature, science and art, it has steadily maintained a jurisprudence which invites the admiration of the world.

No wonder then that we gratefully acknowledge the presence of its highest judicial officers. State lines cannot trammel or bound judicial recognition and respect. Our sister state of Connecticut is closest to us in that wide domain of legal jurisprudence that belts our continent.

All honor then to the distinguished guests at this table. I would like to indulge in some historical recollections, but as we have already listened to a wide flow of personal reminiscences, I yield to the six minutes' limit of remarks with a reiteration of welcome and a genial judicial respect for the judges of the Supreme Court of Connecticut.

Judge David Torrance made a short speech, returning thanks; Governor Leon Abbett responded for the State and Bar of New Jersey, Judge Charles G. Earrison for the Supreme Court of New Jersey, Hon. Esek Cowen and Hon. R. A. Parmenter spoke for the Bar of the State of New York, Cephas Brainerd for the Bar of the City of New York, Hon. Charles Perkins for the Bar of New England, Alfred D. Foster for the Bar of Boston, and Col. Armoy Knox gave reminiscences of his judicial experiences as County Judge in Texas, in early days, that threw a new light upon the criminal jurisprudence of that country.

The following selections are made from a large number of regrets received from gentlemen who did not accept the invitation:

One from Chief Justice Peters of the Supreme Court of Maine:

BANGOR, March 7, 1890.

Clark Bell, Esq.:

Dear Sir—Your note inviting me to become one of a quorum to sit at dinner with the Judicial magnates of Connecticut, on the occasion to be celebrated by the Saturday Night Club in April next, was received and the honor of the invitation is greatly appreciated. I cannot present myself on the occasion. I have a great esteem for that Court, and well remember with what wonderment I used to

look upon its honored members during my New Haven college life, from 1838 to 1842. My admiration during that period of some of the leading lights of the bar always impresses me whenever I think of Connecticut. The college or student admiration, was great for Baldwin and Kimberly and the Ingersolls. I would be glad to enjoy the presence of the worthy successors, of those glorious men of a half century ago, but deprivation of the privilege on the present occasion is inevitable. Thank you for your kindness and consideration. I am sincerely yours,

JOHN A. PETERS.

From Judge Learned, Presiding Justice, Third Department of the State of New York:

ALBANY, March 26, 1890.

Clark Bell, President of the Saturday Night Club:

Dear Sir—I am very much honored by your kind invitation to dine with the Club on April 5th. It would give me pleasure to meet the members of the Club and their distinguished guests, the Judges of the Supreme Court of my native State.

One of my early recollections is the sight of Judge David Daggett, walking to the Court House at New London, in the old costume of knee-breeches and top-boots. At a later date I had the pleasure of knowing quite well Judge Henry W. Waite, of Lyme, the father of the late Chief Justice of the Supreme Court of the United States. He was a man who possessed the same patient industry and calm sound sense which were charcteristic of his more distinguished son. I remember also, about the same time, Judge Storrs, of Middletown, a man of unusual culture and learning. The bench was then adorned also, as I think, by Chief Justice Williams, of whom I have a less distinct recollection.

I have no doubt that those who now fill these places are in every way equal or superior to their predecessors, for I do not think that the bar and bench of the present day, are one whit behind those of a former time. The profession has shaken off some of the technicalities of the overpraised common law, and has taken a better hold on that right and justice, which should govern the decision of Courts.

Please accept my thanks for your courtesy, and my regret that I cannot be absent from home on the day of your dinner, and am therefore obliged to decline the invitation.

I would be pleased if you would present my regards to such of the Judges of the Court of Connecticut, as may be present with you.

I am very truly yours,

WM. L. LEARNED.

From Prof. F. J. Phelps, as a representative of Vermont:

NEW HAVEN, CONN., April 4, 1890.

My Dear Sir—I extremely regret that it is not in my power to accept the invitation with which I have been honored by the Saturday Night Club to meet the Judges of the Supreme Court of Con-

necticut at dinner to-morrow evening. And I regret it the more since I learn that the better representatives of the bar of Vermont, whose presence was hoped for, will not be able to attend.

Vermont was in every sense the child of Connecticut. Our paternal inheritance was priceless and inexhaustible. In blood, in institutions, in traditions, in manners, we are chiefly of the old Connecticut stock of the days of the Revolution. They were Connecticut men and they were great men, who were our earliest statesmen and law givers and lawyers who laid broad and deep in strength of the hills, the foundations of our State. The institutions they established were noble in their simplicity, their soundness, their integrity. I know of no better period of government, and of no better reading of that sort, than the constitution and early statutes by which in terse and vigorous English, they were set forth.

Especially were our jurisprudence and our judicial system and methods modeled after those of Connecticut. We inherited the common laws of England *per stirpe* and not *per capita*. We took it through Connecticut as applied by its Courts and re-enacted by its Legislatures. The judicial excellence for which Vermont has been celebrated was derived, not original. For a long time in our earlier history Connecticut precedents were as paramount in authority as they were salutary in their results.

It would seem most fit, therefore, that the bench and bar of Vermont should join you on this occasion in the honors paid to your distinguished guests, and should add to it the expression of the sense which we, in common with you, entertain of the high character and great ability with which they have maintained the reputation of the judiciary of Connecticut.

I beg, sir, that you will do me the favor to convey to the gentlemen of the Club my thanks for the compliment of their invitation, and my sincere regret at being unable to accept it.

And I have the honor to be, with much respect,

Very sincerely yours,

E. J. PHELPS.

From Hon. J. S. K. Frank, of New Hampshire:

PORTSMOUTH, N. H., March 24,

Hon. Clark Bell, President Saturday Night Club:

My Dear Sir—It is with more than formal regret, that I decline your invitation, to be present at a dinner to be given by your Club, to the Judges of the Supreme Court of Connecticut.

To provincial sense, the taste of a Delmonico dinner, the sight of your distinguished membership, and hearing the words of wit and wisdom, present an attraction hard to resist.

I will presume, in behalf of the bar of New Hampshire, to thank you for this opportunity, to acknowledge its indebtedness to your guests of the evening, for their valuable contributions, to the judicial literature of the country.

To the State of Connecticut we owe one debt.

It is that debt of gratitude, which that State, by adoption of an

eminent citizen, always owe the state of their nativity. At the very commencement of his professional life, Connecticut sent us Jeremiah Mason, who for 35 years was prominent "inter pares" of that galaxy of famous lawyers, who rendered the Bar of New Hampshire, conspicuously eminent, during the first quarter of the century; to whose greatness as a lawyer, and contemporary Daniel Webster paid frequent tribute, and to the example of whose private and professional life the Bar of our State do homage at this remote day.

I received your invitation with pleasure; I decline it with regret, and only because other engagements prevents its acceptance.

I am very truly yours,

J. S. K. FRANK.

Among the decisions of the court which have exerted a wide influence in shaping the rules of American jurisprudence, may be mentioned Catlin v. Eagle Bank, 6 Conn. 233, in which the right of an insolvent corporation to prefer a creditor was upheld; Kennedy v. Hartford & New Haven Railroad Co., 12 Conn. 499, supporting the doctrine, then of doubtful authority, that a subscription to the stock of a corporation implied a promise to pay, notwithstanding a statutory right of forfeiture for non-payment; and Imlay v. Union Branch Railroad Co., 26 Conn. 249, in which the clear and discriminating views of the nature of highways, presented by Chief Justice Storrs, did much to establish the principle, that their use for railroad purposes, by a steam railway company, cast a new burden upon the soil, for which the owner was entitled to additional compensation.

LIST OF JUDGES OF THE SUPERIOR COURT FROM 1764.

Being the date of the Earliest Reported Decisions of that Court, to the Organization of the Supreme Court of Errors, in 1784.

WILLIAM PITKIN (C. J. 1754-1766) 1741-1766
Ebenezer Silliman. 1743-1766
Daniel Edwards, 1756-1766
Benjamin Hall, 1759-1766
Robert Walker, 1760-1772
JONATHAN TRUMBULL, LL. D. (C. J. 1766-1769) 1765-1772
MATTHEW GRISWOLD, LL. D. (C. J. 1769-1784) 1765-1784
Samuel Huntington, 1773-1785
Eliphalet Dyer, LL. D., 1766-1793
Roger Sherman, 1766-1789
William Pitkin, 1769-1789
WILLIAM SAMUEL JOHNSON. J. C. D., LL. D. 1772-1773

List of Judges of Supreme Court of Errors, from its Organization in 1784 to 1898.

SAMUEL HUNTINGTON, LL. D., (C. J. 1784-1787) 1784-1787, 1794-1795
Jabez Hamlin, 1784-1785
William Pitkin, 1784-1785
Roger Sherman, 1784-1785
Joseph Spencer, 1784-1789
OLIVER WOLCOTT, LL. D., (C. J. 1790-1796) 1784-1797
Richard Law, LL. D., 1784-1785
William Williams, 1784-1803
Oliver Ellsworth, LL. D., 1784-1785, 1802-1807
Andrew Adams, LL. D., 1784-1790
Benjamin Huntington, LL. D., 1784-1790, 1791-1793
Joseph Platt Cooke, 1784-1803
STEPHEN MIX MITCHELL, LL. D., (C. J. 1807-1814) 1784-1793, 1807-1814
William Hillhouse, 1785-1807
WILLIAM SAMUEL JOHNSON. J. C. D., LL. D., 1786-1789
Erastus Wolcott, 1786-1790
John Treadwell, LL. D., 1786-1808
Jonathan Sturges, LL. D., 1786-1789
James Wadsworth, 1787-1788
John Chester, 1788-1792, 1803-1807
James Hillhouse, LL. D., 1789-1791
Jedediah Strong, 1789-1791
Jesse Root, LL. D., 1789-1790
James Davenport, 1790-1797
Roger Newberry, 1790-1807
Heman Swift, 1790-1802
John Chandler, 1790-1795
Amasa Learned, 1791-1792
Jonathan Ingersoll, LL. D., 1792-1798, 1811-1816
Asher Miller, 1793-1794, 1806-1807
Thomas Grosvenor, 1793-1802
Thomas Seymour, 1793-1803
Aaron Austin, 1794-1807
Jeremiah Wadsworth, 1795-1801
JONATHAN TRUMBULL, LL. D., (C. J. 1798-1807) 1796-1807
DAVID DAGGETT, LL. D. (C. J. 1833-1834) 1797-1805, 1826-1834
Jonathan Brace, 1798-1799, 1802-1807
ZEPHANIAH SWIFT, LL. D. (C. J. 1815-1819), 1799-1800, 1801-1801, 1806-1819
Nathaniel Smith, 1799-1804, 1807-1813
John Allen, 1800-1806
Chauncey Goodrich, 1802-1807
William Edmond, 1805-1807
Elizur Goodrich, LL. D., 1803-1807
Matthew Griswold, LL. D., 1805-1807
STEPHEN TITUS HOSMER, LL. D. (C. J. 1819-1833), 1805-1807, 1815-1833
Henry Champion, 1806-1807
TAPPING REEVE (C. J. 1814-1815), 1807-1815
John Trumbull, LL. D., 1801-1819
Jeremiah Gates Brainard, 1806-1829
Simeon Baldwin, 1806-1818
Roger Griswold, LL. D., 1807-1809
John Cotton Smith, LL. D., 1809-1811
Calvin Goddard, 1815-1818
James Gould, LL. D., 1816-1819
John Thompson Peters, 1818-1834
Asa Chapman, 1819-1825
William Bristol, 1819-1826
James Lanman, 1826-1829
THOMAS SCOTT WILLIAMS, LL. D., (C. J. 1834-1847), 1829-1847

Clark Bissell, LL. D., 1829-1839
SAMUEL CHURCH, LL. D., (C. J. 1847-1854), 1833-1854
Jabez Williams Huntington, 1834-1840
HENRY MATSON WAITE, LL. D., (C. J. 1854-1857), 1834-1857
Roger Minott Sherman, LL. D., 1839-1842
WILLIAM LUCIUS STORRS, LL. D., (C. J. 1857-1861), 1840-1861
JOEL HINMAN, (C. J. 1861-1870), 1842-1870
William Wolcott Ellsworth, LL. D., 1847-1861
David Curtis Sanford, 1854-1864
THOMAS BELDEN BUTLER, M. D., (C. J. 1870-1873), 1861-1873
Henry Dutton, LL. D., 1861-1866
Charles Johnson McCurdy, LL. D., 1863-1867
JOHN DUANE PARK, LL. D., (C. J. 1873-1889), (age limitation), 1864-1889
Elisha Carpenter (age limitation), 1866-1894
La Fayette Sabine Foster, LL. D., (age limitation), 1870-1876
ORIGEN STORRS SEYMOUR, LL. D., (C. J. 1873), (age limitation), 1870-1874
James Phelps, 1873-1875
Dwight Whitefield Pardee, LL. D., 1873-1890
Dwight Loomis, LL. D., 1875-1891
Miles Tobey Granger, LL. D., 1876-1887
Sidney B. Beardsley, (Resigned Nov. 1, 1889), 1887-1889
CHARLES B. ANDREWS, LL. D., (Chief Justice, now on the bench), 1889
Edward W. Seymour, (Died Oct. 16, 1892), 1889-1892
David Torrance, (Now on the Bench), 1890
Augustus Hall Fenn, (Died Sept. 12, 1897), 1893-1897
Simeon E. Baldwin, LL. D., (Now on the Bench), 1893
William Hamersley, LL. D., (Now on the Bench), 1894
Frederick B. Hall, (Now on the Bench), 1897

THE PRESENT BENCH.

HON. CHARLES BARTLETT ANDREWS.

CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.

Charles Bartlett Andrews was born in Sunderland, Franklin county, Mass. His father, Erastus Andrews, was a clergyman and pastor of a Baptist church in North Sunderland. The family was of Connecticut origin, descendants of William Andrews, one of the original settlers of Hartford, and for many years its town clerk. Judge Andrews' grandfather, Elisha Andrews, was born at Middletown, but his parents removed to Massachusetts while he was yet a boy, and he lived there during the remainder of his life. E. Benjamin Andrews, President of Brown University, is a younger brother of the Chief Justice.

Mr. Andrews was graduated from Amherst College with high rank in 1858. He studied law in Sherman, Conn., was admitted to the bar of Fairfield county at Bridgeport in 1860, and immediately after began the practice of his profession at Kent, Conn.

In 1863 the Hon. John H. Hubbard, then one of the leaders of the Litchfield county bar, was elected to Congress; and, looking about for a bright young lawyer to aid him in conducting his large business, selected Mr. Andrews. It was a shrewd choice; and, during the four years of Mr. Hubbard's public service, his junior partner proved himself competent to try important causes in court, and equal to all the emergencies of a large practice.

In 1868 Mr. Andrews was elected to the State Senate, where he took a prominent part during the session of that

EX-ASSOCIATE JUSTICES SUPREME COURT OF ERRORS OF CONNECTICUT.

HON. EDWARD W. SEYMOUR,
Associate Justice Supreme Court,
1889—1892.

HON. SIDNEY B. BEARDSLEY,
Associate Justice Supreme Court,
1887—1889.

HON. DWIGHT LOOMIS,
Associate Justice Supreme Court,
1875—1891.

HON. ELISHA CARPENTER,
Associate Justice Supreme Court,
1866—1791.

HON. AUGUSTUS H. FENN,
Associate Justice Supreme Court,
1893—1897.

year; and, in 1869 he was re-elected, an unusual honor in a district where renominations were infrequent. During his second term in the Senate he was chairman of the judiciary committee, and took a leading part in shaping the legislation of the session. Between 1872 and 1873 it so happened that most of the prominent members of the Litchfield county bar were removed; Mr. Hubbard by death, Judge Origin S. Seymour by elevation to the Supreme Court, and Mr. Edward W. Seymour (afterward an associate judge of the Supreme Court) by change of residence to Bridgeport; and, thereupon, Mr. Andrews came into the enjoyment of by far the largest and most lucrative practice in the county. From that time till 1878 he led the life of a very busy lawyer constantly growing in reputation and employed on one side or the other in nearly every important suit tried in the county.

In 1878 Mr. Andrews was elected from Litchfield to the House of Representatives, the first Republican chosen to represent that town since the war. He was a prominent candidate for the position of speaker, and was appointed chairman of the judiciary committee, and, *ex officio*, leader of the House, a position for which his attainments and experience as a lawyer, his sagacity as a politician, and his remarkable power of clear yet compact statement, admirably fitted him. In fact it was the ability he displayed as leader of the House which gave him the nomination as Governor in the autumn of the same year.

For many years in Connecticut the Democrats had elected their State officers, and, on the assembling of the Republican convention in the Summer of 1878, some of the more prominent Republicans took care that their names should be withdrawn from its list of possible candidates. Mr. Andrews made a shrewder estimate of the condition of Connecticut politics, accepted the nomination,

received a plurality of the votes cast, and was duly elected by a Republican legislature.

During Governor Andrews' two years term of office, several important measures were before the legislature. The boundary line between Connecticut and New York, which had remained uncertain for a century and a half, in fact, since the foundation of their governments, was at last settled by a joint commission, whose report was accepted by the legislatures of both States. But by far the most important legislation of Governor Andrews' term was the passage of the Connecticut Practice Act—a measure framed by some of the most eminent lawyers in the State to serve the purpose of the Codes framed in other States for simplifying and reforming the common law pleadings and practice in civil actions. Having the benefit of thirty years' experience elsewhere, this act was a model of simplicity and practical usefulness, reforming what was cumbersome and intricate in the old practice, while it retained the advantage of the sound principles and innumerable precedents underlying it. The act was strongly opposed by many of the older lawyers in and out of the legislature, but had the firm and efficient support of the Governor throughout. Its success has fully justified the expectations of those who procured its passage, and it forms a most important epoch in the history of Connecticut legislation.

Though Governor Andrews' administration was firm and popular, many circumstances occurred to prevent his renomination. In 1882 Governor Bigelow appointed him to the bench of the Superior Court where his untiring industry, his thorough legal knowledge, and his keen discernment as a trier, commended him to the bar and people of the State.

In 1889, on the retirement of Chief Justice Park, of the

Supreme Court, Governor Bulkeley nominated Judge Andrews as his successor; and he has satisfactorily performed the duties of that position to the present time.

Beginning practice as he did in one of the smallest towns of Connecticut, a stranger with no advantages of wealth, social position or family influence, Judge Andrews' steady advance to the highest positions in one of the oldest and most conservative States in the Union is a typical instance of the remarkable chances which the lottery of life in our republic opens to all its citizens. But the industry, the native force and the sagacity which have enabled him to profit by every opportunity are perhaps equally remarkable.

HON. DAVID TORRANCE.

ASSOCIATE JUSTICE SUPREME COURT.

Judge Torrance was born in Edinburgh, Scotland, March 3, 1840, and moved to this country in 1849. He was educated in the common and public schools, and commenced his business career as a papermaker. While engaged in this occupation, the Civil War broke out, and in July, 1862, he enlisted as a private in Company A, of the 18th Regiment of Connecticut Volunteers; and served as second sergeant until December 22, 1863, when he was appointed captain of Company A, of the Twenty-ninth Connecticut Colored Regiment. In July, 1864, he was advanced to the position of a major, and in November, to that of lieutenant colonel. He was musterd out of the service at Brownsville, Texas, October, 1865. He was taken prisoner while a member of the Eighteenth Regiment, and for a short time was confined in Libby Prison and on Belle Island. After his return, he commenced the study of law, and was admitted to the bar in the year 1868. In 1871–2 he

represented the town of Derby in the Lower House of the General Assembly of Connecticut, and in 1879 he was elected Secretary of State, serving one term. In 1881 he was appointed Judge of the Court of Common Pleas for New Haven county. In 1885 he was elected to the Superior Court Bench, and in 1890 was advanced to the bench of the Supreme Court, a position which he now holds.

He is a member of the Congregational Church, and a Republican in politics, a distinguished member of the Army and Navy Club of Connecticut, and closely associated with the G. A. R. He married Miss Annie France, He was recently elected a member of the faculty of the Law School of the University of Yale, holding the chair on Evidence. He is destined for a high and honorable career.

HON. SIMEON E. BALDWIN, LL. D.

ASSOCIATE JUSTICE CONNECTICUT SUPREME COURT.

Judge Baldwin was born at New Haven, Connecticut, February 5th, 1840, son of Roger Sherman and Emily (Perkins) Baldwin, and great-grandson of Roger Sherman, signer of the Declaration of Independence. He was graduated at Yale college in 1861, studied law at Yale and Harvard law schools, was admitted to the bar in 1863, and began to practice his profession at New Haven. In 1869 he was appointed an instructor in the Yale Law School, and was made Professor of Constitutional and Mercantile Law, Corporations and Wills in 1872. In 1872 he was appointed by the legislature on a commission to revise the educational laws of Connecticut, and in 1873 on a commission to revise the general statutes. He was the originator of the movement to introduce code pleading in his State, and

was on the commission appointed for that purpose in 1878. In 1885 he served on the commission to recommend a better system of taxation, and drew the report, the result of which was a large addition to the revenues of the State. In 1884 he was elected President of the New Haven Colony Historical Society. He was one of the promoters of the New Haven park system and Vice-President of the park commission. He was also a vice-president of the State Bar Association, and in 1890 was made President of the American Bar Association. In 1893 he was elected an Associate Judge of the Supreme Court of Errors of Connecticut, a position which he now holds. Harvard conferred on him the degree of LL. D. in 1891. He is the author of "Baldwin's Digest of the Connecticut Law Reports" (2 vols.), and of addresses and pamphlets.

[The foregoing sketch of Judge Baldwin is taken from Brown's Cyclopædia of American Biographies.]

HON. WILLIAM HAMMERSLEY.

ASSOCIATE JUSTICE SUPREME COURT OF CONNECTICUT.

Judge Hammersley was born in Hartford, Conn., September 9th, 1838, the son of Hon. James Hammersley, for many years a prominent citizen of that city. He studied at the old Hartford Grammar School, and afterwards at the High School and entered Trinity College in 1854, but left during his senior year, to study law in the office of Shipman and Welch. Admitted to the bar of Hartford county in 1859. He was a member of the city government in 1863, '67 and '68, during the last two years being president of the board of common council. He was also for a time city attorney, resigning it to accept the position of state's attorney for Hartford county in 1868. He held this office for twenty years.

In 1886 he represented the town of Hartford in the legislature, serving on the judiciary committee. He was again a member of the House in 1893, but resigned during the session to take the position of Judge of the Superior Court; this he held until January 14, 1894, when he was advanced to the bench of the Supreme Court of Errors, a position which he now holds. He was one of the founders of the Connecticut State Bar Association and was a member of the committee with Governor Hubbard and Judge Baldwin, whose efforts led to the founding of the American Bar Association. He was one of the original promoters of the civil procedure reform in this State, and a member of the commission that drafted the Practice Act, and the rules and forms of procedure adopted by the court for giving due effect to its provisions; he was also an early and active promoter of the reform in the jury system in Connecticut.

HON. FREDERICK B. HALL.

ASSOCIATE JUSTICE SUPREME COURT OF CONNECTICUT.

Judge Frederick B. Hall was born at Saratoga Springs, N. Y., February 20th, 1843, and began life as a newsboy in that village.

In 1858 he went with his parents to Bridgeport, Conn., where he worked as a moulder in the foundry of the Wheeler & Wilcox Sewing Machine Company. He prepared for college at the Connecticut Literary Institute of Suffield, Conn., completing his studies in 1862.

He enlisted in 1862 as a private soldier in the 17th Regiment Connecticut Volunteers, but was dismissed the service the same year, on account of physical disability resulting from typhoid fever contracted in the service.

He entered Brown University in 1863 and was graduated in 1867.

He studied law at Bridgeport, in the office of Henry S. Sanford, was admitted to the bar in 1870, and was associated with Goodwin Stoddard in the practice of the law at Bridgeport, Conn., until 1877, when he was appointed Judge of the Court of Common Pleas for Fairfield county, Conn. He was twice re-appointed, holding that office until 1889, when he was appointed a Judge of the Superior Court, to which position he was re-appointed in 1897. In September, 1897, he was appointed a Judge of the Supreme Court of Errors of Connecticut, to fill a vacancy caused by the death of Judge Augustus H. Fenn, of that court, a position which he now holds.

EX-CHIEF JUSTICES OF THE SUPREME COURT OF ERRORS OF CONNECTICUT.

SAMUEL HUNTINGTON.

EX CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1784—1787.

Justice Huntington was born in 1732. Signed the Declaration of Independence in 1776. Was President of the Continental Congress from 1779 to 1781, and Governor of Connecticut from 1786 to 1796. He was Chief Justice of the Supreme Count of Connecticut from 1784 to 1787. Died in 1796.

OLIVER WOLCOTT, LL. D.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT
1709—1796.

Was a member of the Connecticut Executive Council from 1774 to 1786. Commissioner of Indian Affairs for the Northern Department in 1775. He was a delegate from Connecticut to the Continental Congress from 1776 to 1778, and signed the Declaration of Independence. He was placed in command of fourteen Connecticut regiments which he organized for the defence of New York. He led a brigade under General Gates at Saratoga. He served in Congress for Connecticut from 1780 to 1784. He was Lieutenant-governor of Connecticut from 1786 to 1796, when he became governor of the State, and a member of the Supreme Court. He was Chief Justice of the Supreme Court of Errors from 1790 to 1796. He died in 1797.

HON. STEPHEN MIX MITCHELL.

EX-CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1807—1814.

Chief Justice Stephen Mix Mitchell was born in Wethersfield, Conn., December 20, 1743; and educated at Yale College, where he graduated in 1763. After finishing his course he remained a teacher for a few years. He found time to pursue legal studies while thus engaged and afterwards continued them in the office of Jared Ingersoll, Esq. Admitted to the bar in Fairfield county in 1770, and two years later removed to Wethersfield to engage in practice. In May 1779, he was chosen an associate judge of the County Court, and ceased active practice. This office he retained till May, 1790, when he was placed at the head of the court. In 1795 he was appointed a judge of the Superior Court, and in May, 1807, Chief Justice of the Supreme Court. He held this office till May, 1814, when he had reached the age of seventy.

He represented the town of Wethersfield in the General Assembly from October, 1778, until October, 1783. In October, 1783, he was chosen clerk of the House of Representatives. He was chosen assistant in May, 1784, and annually thereafter for nine successive years; and was in that capacity a member of the Supreme Court of Errors.

He was a delegate from his State in the Congress of the United States, previous to the adoption of the Constitution, in the years 1783, 1785, 1788. In October, 1793, he was appointed a senator from his State in the Congress of the United States, for the unexpired part of the term made vacant by the death of the Hon. Roger Sherman, in

which situation he continued until he became a judge of the Superior Court in October, 1795.

In September, 1807, he received from the corporation of Yale College the honorary degree of LL. D. He was a member of the Convention that formed the Constitution of the State, in 1818. He died at Wethersfield, September 30, 1835.

WILLIAM SAMUEL JOHNSON, J. C. D., LL. D.

EX CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1786—1789.

Judge Johnson was a Connecticut delegate to the Stamp Act Congress in 1765. He was London agent of the Colony from 1766 to 1771. He was judge of the Connecticut Superior Court from 1772 to 1774. Served in the Continental Congress from 1784 to 1787, and aided in drafting the Constitution. He was Chief Justice of the Supreme Court of Errors from 1786 to 1789.

He was United States Senator from 1789 to 1791, then President of Columbia College till 1800. He died in 1819.

HON. JONATHAN TRUMBULL.

EX-CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1898—1807.

Judge Johnathan Trumbull, the elder was born in Lebanon, Conn., October 12, 1710, was the son of Joseph Trumbull and Hannah (Higby) Trumbull. The Trumbull family is of Scotch origin, the name originally being Turnbull, and probably corrupted in spelling by the Scotch pronunciation; it was spelled Trumble early in the eighteenth century and to 1766, when the spelling was changed to

its present form. The above named Joseph Trumbull was born in Rowley, Mass., in 1699, a son of John, Jr., of Suffield, Conn., who was the son of John, of Cumberland, Eng.

Jonathan Trumbull was graduated at Harvard, in 1725. He was made a deputy in 1733, and held the office for thirteen other sessions of the General Court. In 1740, he was made assistant, and deputy governor, in 1766. He was governor of the State from 1769 to 1783. And as such was the Chief Justice of the State before the organization of the court in 1784. His judicial services began with his appointment as assistant judge of the Windham County Court, in 1745, and he was judge of probate for the Windham District. From 1733 to 1764 he was engaged in mercantile pursuits, chiefly in the West India trade, with other foreign connections, mainly England and Holland.

He left no published writings, excepting his official correspondence and documents. He is said to have devoted the last years of his life to studying the Bible in the Hebrew language.

He was married at Duxbury, Mass., December 9, 1735, to Faith Robinson, daughter of Rev. John Robinson, of Duxbury.

He died August 17, 1785.

His son Jonathan was Paymaster of the Northern Department and aide to Washington during the Revolution; member of the State Legislature, member of Congress, representative from Connecticut, speaker of the United States House of Representatives in 1794, lieutenant governor of Connecticut, 1796, governor, 1798–1809, and chief judge of the Supreme Court of Errors from 1798 to 1807.

It is stated, without authority, in Stuart's life of Jonathan Trumbull, Senior, that his wife, Faith, was a

lineal descendant of John Robinson, the Puritan leader. She was, however, a lineal descendant of John Alden and Priscilla Mullens, his wife.

HON. DAVID DAGGETT.

EX-CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT. 1833—1834.

Chief Justice Daggett was born in Attleboro, Bristol county, Mass., December 31, 1764; he died at New Haven, Conn., April 12, 1851. He was fifth in the direct line of descent from John Daggett, who came over from England with Winthrop's company in 1630, and settled in Watertown, in the colony of Massachusetts. His father was Thomas Daggett, a man of vigorous intellect, strong common sense, and decided and earnest religious character.

At the age of sixteen he entered Yale College in the junior class and was graduated with high honor in the year 1783, in the same class with Samuel Austin, Abiel Holmes, and John Cotton Smith. Of this class, numbering forty-two at the time of graduation, he was the last survivor but one. He commenced his professional studies soon after leaving College in the office of Charles Chauncey, Esq., of New Haven, and continued there till January, 1786, when he was admitted to the bar in New Haven county. While pursuing his legal studies he supported himself by performing the duties of butler in college, and of preceptor in the Hopkins' Grammar School.

In 1791, he was chosen to represent the town of New Haven in the General Assembly, and was annually re-elected till 1797, when he was chosen a member of the Council. In 1794, he was elected speaker of the House at the early age of twenty-nine. He remained in the Council

until he resigned in 1804. In 1805, he was again a member of the House of Representatives. He was chosen to the same House in 1809, and continued there until May, 1813, when he was chosen a senator of the United States. In June 1811, he was appointed state's attorney, for the county of New Haven, and held the office two years. At the close of his senatorial term in 1819, he returned to his extensive practice of law. In November 1824, he became an associate instructor of the Law School in New Haven, with the late Judge Hitchcock; and in 1826, he was appointed Kent professor of law in Yale College. These positions he continued to hold until he had reached a very advanced age. In 1826 he received from the corporation of Yale College the honorary degree of LL. D. The same year he was chosen an associate judge of the Superior Court of this State. During the years 1828 and 1829 he was mayor of the city of New Haven. In May 1832, he was made chief justice of the Supreme Court, and continued to perform the duties of that station until December 31, 1834, when he reached the limit which Connecticut assigns to the judicial office.

Mr. Daggett was admitted to the bar, and entered into public life, two years before the adoption of the Federal Constitution. He united, as did the great body of the people of New England, with the Federal party, and he continued to be its firm, consistent and thorough supporter. In the Legislature of the State, and as a senator of the United States, he was a sagacious and powerful advocate of its general principles and policy. For many years, no man in the State had so much political influence, an influence amounting so nearly to political control of the State, as he.

Of the qualities which rendered him so eminent in political life, the most memorable was his faculty of quick

and thorough insight, of looking through, speedily and completely, men, measures and cases and understanding what was in them.

United with this sense was a well balanced judgment. In his intellectual efforts, he directed his force as by a kind of instinct, to that which was useful and practicable.

He had also a quick sense of propriety or fitness, a quality which rendered him very agreeable to others, and was of great service to him in his life, specially at the bar.

He abounded also in wit and humor, and had an inexhaustible fund of anecdotes, always at command, which he used to illustrate his positions and arguments with great felicity.

His memory was accurate and retentive; and it had the excellent quality of retaining what was pertinent, and of letting the rest go. His knowledge of law was profound and eminently practical.

He was very familiar with the Bible, which he had known from a child, and had studied in manhood more than any other book. Its expressions were stored in his memory in great abundance, and with singular accuracy; and he was accustomed to weave them, when a judge, into his charges, and specially into his addresses to the convicted, with great solemnity and power.

At the age of twenty-one, soon after he commenced to practice law, he was united in marriage, to Wealthy Ann, daughter of Dr. Aeneas Munson; she died in July, 1839, at the age of seventy-two. He had nineteen children, the offspring of his marriage. In May 1840, Judge Daggett was married a second time to Mary, daughter of Major Lines, who survived him.

HON. ZEPHANIAH SWIFT.

EX CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1815—1819.

Chief Justice Swift graduated from Yale in 1778, and began practice in Windham quite early in life. He was twice chosen to be a member of Congress, in 1793 and 1795. When Chief Justice Ellsworth was sent on his diplomatic mission to France in 1800, Swift accompanied him as secretary. Shortly after his return he was appointed a judge of the Supreme Court, and chief justice in 1815, a position he occupied till 1819. While a member of Congress, he found time to write and publish his "System of the Laws of Connecticut," in two volumes. In 1810 he issued the "Digest of the Laws of Evidence in Civil and Criminal Cases, and a Treatise on Bills of Exchange and Promissory Notes." In 1822–3, followed his "Digest of the Laws of Connecticut," in two volumes, published just before his death. He was a man of wide reading in the law, an unmistakable insight into the principles of government, and a clear and logical style. At the time his "System" was written scarcely anything had been published upon the law of the State, and, in striking out a new path, he produced a work that gave a comprehensive view of the English common law, and exhibited with great clearness whatever was peculiar to the jurisprudence of Connecticut.

HON. STEPHEN TITUS HOSMER.

EX-CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1819—1833.

Chief Justice Hosmer, son of Titus Hosmer, was a native of Middletown, and was graduated at Yale in 1782. He was a member of the Council for ten years, a judge of the Superior Court for four years, and chief judge, for fourteen years. He received the degree of Doctor of Laws from Yale College. He died in Middletown, August 6, 1834.

HON. TAPPING REEVE.

EX-CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.
1814—1815.

Chief Justice Reeve, the son of the Rev. Abner Reeve, was born in Southold, L. I., in October, 1744. He graduated at the College of New Jersey in 1763, and remained there four years as a tutor. In 1784 he opened a law school at Litchfield, which proved to be for many years one of the leading institutions for the acquirement of legal learning in the country. In 1798 he was appointed judge of the Superior Court. In 1807, he was promoted to the Supreme Court Bench, and in 1814 he became Chief Justice, a position which he held till 1815. He died December 13, 1823.

HON. THOMAS SCOTT WILLIAMS.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1834—1847.

Chief Justice Williams was one of the justices of whom it may be said that they adorned the bench of the Supreme Court. He graduated from Yale at the early age of seventeen, in the class of 1794, studied at the Litchfield Law School, and in the office of chief justice Swift; he was admitted to the bar of Windham county in 1799. In 1803, he removed to Hartford, which thereafter remained his home. He repeatedly represented the city in the General Assembly, and in 1817 was elected a representative in Congress. His connection with the bench began in 1829 when he was appointed an associate judge of the Supreme Court, and in 1834, was promoted to be chief justice. He held the office until he reached the constitutional limit of seventy years of age in 1847, one of the longest terms as presiding judge since the court was founded. In the strong and rugged qualities of his mind, Judge Williams was a characteristic New Englander. He seemed to be so constituted, that his mental qualities ran in the deepest grooves of honesty and wisdom. He could hardly get out of his track into the mazes of speculation or the obscurities of philosophy. Those great foundation principles that underlie every noble character were with him so deep and broad that no one imagined that the superstructure had in it the ordinary elements of human weakness. He was a person of exceptional firmness of conviction and clearness of vision, and when his native wisdom showed the right, as it seemed unerringly to do, it was impossible to swerve

him from the line of his duty. There have been men of equal ability on the bench of the State, though their number is small, but there have been none who represented a stronger force for good, and of more courageous convictions.

HON. SAMUEL CHURCH.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1847—1854.

Chief Justice Church was born in Salisbury, February 4, 1785, and graduated at Yale in 1803. He studied law with Hon. Judson Canfield, of Sharon, and at the Litchfield Law School, and was admitted to the bar in September, 1806. In the spring of 1808 he commenced the practice of law in his native town, was appointed postmaster in 1810, a Justice of the Peace in 1818, and during the latter year he was chosen a delegate to the convention which formed the present Constitution of the State. He was subsequently a member of the House of Representatives six sessions, Judge of the Probate Court eleven years, and in 1832 was chosen a Judge of the Superior Court, and later of the Supreme Court of Errors. In May, 1847, he was appointed Chief Judge of the Supreme Court, and at the following commencement of Trinity College he received the degree of Doctor of Laws. He died in 1854.

HON. HENRY MATSON WAITE.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1854—1857.

Chief Justice Waite received his legal instruction from two of the ablest men whom the State has produced, Matthew Griswold and Roger Griswold. He graduated from Yale in 1809, and after teaching school a few months, studied for the bar and was admitted in 1812. Practicing first at Middletown, he soon removed to Lyme, and there began to win from his townsmen that high respect that continued through his entire career. Twice he represented them in the House of Representatives and twice in the Senate. The large and profitable litigation that followed in the train of the war with Great Britain brought him an extensive and lucrative practice, and his sagacity, industry and accurate legal knowledge kept him on the highway to professional success. In 1834 he was appointed to the Supreme bench after the retirement of Judge Daggett. For twenty years he continued a member of the court, until he was appointed Chief Justice, and in this position he remained three years longer. His was one of those quiet, modest and thoughtful natures that make little splash or noise, but which move in their own serene way, true to the highest standard of uprightness. No interest of client or state was ever known to be disregarded by him, and he contributed his full share to the high character which our Supreme Court has always maintained. He was the father of Morrison R. Waite, Chief Justice of the United States.

HON. WILLIAM LUCIUS STORRS, LL. D.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1857—1861.

Chief Justice Storrs was a man of massive frame, of great intellectual vigor, and high attainments. He graduated at Yale and went to practice at Middletown, where he soon rose to eminence at the bar and commanded a large practice. He was twice sent to the national House of Representatives, and from there called to the bench of the Supreme Court of the State. He was appointed Chief Justice in 1857 and held it until his death in 1861. In general and literary education Judge Storrs was rarely equipped. His mind was polished in a high degree by familiarity with the best English authors and a love of the elegant and lasting in the literature of the world. Constant study of these models left its proofs in the grace and correctness of his style. His mind was logical and deductive and followed a chain of reasoning with the steadiness of an Indian on the trail. It did not rush to an intuitive goal, but found it at last by a process that made him familiar with each step of the way. The familiarity which he showed for the classics of literature, became in his chosen profession a wide and deep knowledge of the whole science of the law. With Williams and Waite he placed the character of the bench upon so high a plane that the lawyers of this day will only appreciate its elevation when they are required to reach it.

HON. JOEL HINMAN.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1861—1870.

Chief Justice Hinman was in all respects a self-made man. His early education was limited to the common schools of Connecticut. He was born in 1802. He was admitted to the bar in 1824. He filled the office of Judge of Probate for the district of Waterbury in House of Representatives. In 1842 he was elected Judge of the Supreme Court in the place of Roger M. Sherman, who resigned. With him upon the bench were Chief Justice Williams, Samuel Church, Henry M. Waite and William L. Storrs. Each of the five filled the office of Chief Justice, Judge Hinman being promoted in 1861. A man of large build, rather indolent in nature and without the culture or the graces that distinguished Judge Storrs, he was yet a close observer and penetrating judge of character. He was a man of attractive simplicity of manner both off and on the bench. But his mind was judicial in its construction; he saw quickly the right and the wrong of a cause, with a practical ease of obtaining a conclusion that made it seem much like an intuition. His honesty was sterling.

HON. THOMAS BELDEN BUTLER, M. D.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1879—1873.

Judge Butler was born at Wethersfield, Conn., August 22, 1806. His father, Frederick Butler, was a man of literary tastes and the author of several books, chief among which is a "Compendium of History." His mother was Mary Belden, a native of Wethersfield. His education was carefully conducted by his father, and upon its completion he entered the Yale Medical School, where he remained two years, then completed his professional studies in Philadelphia. He settled as a physician in Norwalk, and pursued his practice there for about eight years. In 1835 he decided to abandon medicine and devote himself to law. He studied with Judge Bissell, and was admitted to the bar of Fairfield county in 1837. He soon after entered into partnership with Thaddeus Betts, upon whose death he took and conducted the extensive business left by him. He afterwards formed a partnership with Orris S. Terry, Esq., then just commencing the practice of law. Still later he had as a partner Joseph M. Carter, who remained with him until Judge Butler was elected to the bench of the Supreme Court in 1855. He continued in that court until he was elected by the legislature to the Supreme Court, in 1861. He was appointed Chief Justice in May, 1870, to fill the vacancy caused by the death of Chief Justice Hinman, and served until June 1873.

In the year 1849 he was elected to Congress, and served one term. He was also a member of the State Senate in 1848, 1852 and 1853, and a member of the House of Rep-

resentatives from Norwalk five times. His habits of observation led him early in life to study the phenomena of the weather and to form theories with regard to its changes. In 1856 he published an elaborate work on the subject, entitled "The Philosophy of the Weather," of which a second and enlarged edition was published in 1870, under the title of the "Atmosphere System." He was also fond of the study of mechanics, and obtained several valuable patents as an inventor.

He had a legal mind in the best sense of that term. He readily understood and appreciated the nicest distinctions, and no one could discriminate more closely or clearly. His mind was in the highest degree philosophical, and never found more congenial occupation than when engaged in speculation on some philosophical subject, especially if of a physical nature.

He was a regular attendant all his life at the Congregational church of Norwalk, but never, until shortly before his death, connected himself by profession with the church. He was always a staunch supporter both of religious institutions and of what he regarded as sound religious doctrine.

In 1831 he married Mary Phillips Crosby, of Norwalk.

HON. JOHN DUANE PARK, LL. D.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1874—1889.

Judge Park was born in Preston, Conn., April 26, 1819, the son of Benjamin F. Park, and a descendant of Sir Robert Park, who settled in Boston in 1630. He studied law in the office of Hon. Lafayette S. Foster, and was admitted to the bar of New London county in 1847. In 1854 he was Judge of the County Court for New London county,

and served until it was abolished the following year. In In 1855 he represented the town of Norwich in the Assembly. In 1861 he received from Yale College the degree of A. M. He was appointed to the Superior Court in 1863, and the following year advanced to the Supreme Court bench. In 1873 he was appointed Chief Justice of the State, and held that position until he reached the age of seventy years. After his retirement from the bench he held the position of State Referee.

HON. ORIGEN STORRS SEYMOUR.

EX-CHIEF JUSTICE SUPREME COURT OF CONNECTICUT.
1873—1874.

Judge Seymour was born in Litchfield, Conn., February 9th, 1804. His father was Ozias Seymour, son of Moses Seymour and one of the early settlers of the town.

Mr. Seymour was graduated from Yale College in 1824, studied law in the famous Litchfield Law School and entered upon the practice of law in that town. Although devoted to his profession, he engaged actively in politics and at five different times was elected to represent the town in the General Assembly of the State.

In 1851 he was elected member of Congress from the fourth congressional district, and in 1853 was re-elected.

In 1855 he became a Judge of the Superior Court and held the office until 1863. In 1870 he was appointed one of the judges of the Supreme Court, and in 1873 was made Chief Justice. This office was held not quite a year, because on the 9th day of February, 1874, he reached the age of seventy and was thus disqualified.

After leaving the bench he resnmed the practice of the law and served on several important commissions. One of

them settled the boundary lines between this state and New York. Another revised and greatly changed the civil practice in the State courts. On this code and on other subjects he gave several courses of lectures to the sudents of the Yale Law School.

Judge Seymour was a communicant of the Protestant Episcopal church, and was elected by the Diocesan Convention one of its deputies to the Triennial convention of the church five successive times. He died in Litchfield August 12th, 1881.

EX-ASSOCIATE JUSTICES OF THE SUPREME COURT OF ERRORS OF CONNECTICUT.

HON. WILLIAM PITKIN.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1784—1785.

Justice Pitkin was a member of the Council from 1734 to 1754, when he was elected lieutenant governor of the Colony. He remained in the latter office until 1766, when he succeeded Mr. Fitch as governor. He died while holding the office of governor, October 1, 1769. Governor Pitkin was also a judge of the Superior Court for thirteen years; and chief judge for twelve years.

ROGER SHERMAN.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1784—1785.

Associate Justice Roger Sherman was born in 1721. Was a shoemaker in early life, a surveyor, lawyer, member of the Legislature, and appointed a judge of the Supreme Court of Connecticut in 1784, a position he held until 1785.

He was a delegate to the first and second Continental Congress, was one of the Committee of Five to draft the Declaration of Independence, was an original signer of the Declaration of American Independence; a member of the Connecticut Committee of Safety, and one of the most conspicuous names connected with the American Revolution.

He was an influential delegate to the Federal Constitutional Convention of 1787. He was the author of the valuable "Citizens' Letters" of that period, and supported the Constitution in the ratifying convention of his State. He was a member of the lower house of the first Congress, 1789 to 1791; and United States Senator, 1791 to 1793. He died in 1793.

Connecticut has no more honored name than that of Roger Sherman. The portrait we have of him was furnished the editor by his great-grandson, Roger Foster, Esq.. of the New York Bar.

WILLIAM WILLIAMS.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1731—1811.

Accompanied Col. William's expedition to Lake George in 1755.

He was a member of the Connecticut Legislature for more than fifty years, and a Probate Judge for forty years.

He represented Connecticut in the Continental Congress, from 1776 to 1777, and from 1783 to 1784, and signed the Declaration of Independence. He was Associate Judge of the Supreme Court of Errors from 1784 to 1803.

OLIVER ELLSWORTH.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1784—1788.

Judge Ellsworth was born at Windsor, Connecticut, on the 29th April, 1745. He received a classical education and graduated from Princeton in 1766. He read law but

was not admitted to the bar until 1771. His integrity, industry, knowledge of the law, careful preparation of his cases and great eloquence brought him early into prominence in his profession.

He took an active part in political questions, especially in resisting the encroachments of Great Britain upon the rights of the Colonies. He was elected a delegate to the Continental Congress, was appointed on important committees, and at once occupied a conspicuous position on the floor of the House.

In 1784 he was appointed a judge of the Superior Court of Connecticut, then the highest Court in the State.

While still upon the bench, in 1787, he was chosen a member of the Federal Convention, and was one of the most influential members of that body in framing the Constitution, and has been regarded by many as one of the authors of our Federal System. By an accident his name does not appear among the original signers of the Constitution, but few of the members of the Convention had a larger influence in framing it than did he. He was later elected Senator of the United States by his native State, being with William Samuel Johnson the first senators elected by Connecticut to the Senate of the United States, and in that body, he was one of the staunchest and ablest supporters of President Washington and his administration, serving from 1789 to 1796.

Perhaps his most important work was the creation and establishment of the Judiciary System. Mr. Justice Field says, that he was the author of the Judiciary Act of 1789. In ex parte Virginia 100 U. S. 313–339 (1879) Judge Field says, "That Great Act was penned by Oliver Ellsworth, a member of the Convention which framed the Constitution."

In 1795 Chief Justice John Jay resigned his office on his election as Governor of New York, and the Senate rejected

the appointment of John Rutledge as his successor, who was named by the President against the advice of his Cabinet, by reason of an attack made by Rutledge upon the treaty Jay just had consummated with England, and because his mind was then regarded as impaired. William Cushing, then the Senior Associate Justice, was on January 27, 1796 appointed Chief Justice of the Supreme Court of the United States, but declined the position, preferring the seat he then held.

Oliver Ellsworth was then named as Chief Justice, March 4, 1796, which place he held until November, 1800, when he having been named as one of three Envoys Extraordinary and Ministers Plenipotentiary to France in October, 1799, he sent his resignation from Paris.

Mr. Hampton L. Carson says of Ellsworth in his History of the Supreme Court of the United States: "That he was a man of kingly dignity, exalted conscience, immutability of will, but slow and ponderous intellect. His name will always rank among the most distinguished statesmen and jurists of America."

Daniel Webster, in the Senate of the United States, speaking of him, said: "That he was a gentleman who had left behind him, on the records of the Government of his country, proofs of the clearest intelligence, and of the utmost purity and integrity of character."

Connecticut has contributed many great names to adorn the annals of American history, but among them all, none who have been abler, sounder in judgment, and of broader sagacity in the highest sense, both as statesman and jurist, than Oliver Ellsworth.

HON. JESSE ROOT.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1789—1790.

Justice Root graduated at Princeton College, in 1756, studied for the ministry and preached several years. He abandoned this for the law, being admitted to the bar in Hartford, in 1763. Here he continued to practice until after the breaking out of the Revolutionary War. In 1777, he joined Washington's army at Peekskill, with the rank of lieutenant-colonel. The next year he was sent as a delegate to the Continental Congress, where he remained four years. In 1789 he was appointed to the bench of the Superior Court, adding to his duties as a judge the task of reporting cases. His essay upon the common law of Connecticut, which appears as a preface to the first volume of his reports, is the first work of its kind in the State.

HON. THOMAS GROSVENOR.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1793—1802.

A lawyer of Pomfret, son of John Grosvenor, Esq., a graduate of Yale in 1765. He served as an Associate Justice yf the Supreme Court from 1893 to 1802 He died in 1825.

HON. JOHN TRUMBULL, JR., LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1801—1819.

John Trumbull was born in 1750 and died in 1831.

He graduated at Yale College in 1757.

He was the author of "The Progress of Dullness," published in 1772, a satire on the then prevailing System of Education. In 1773 his poem entitled "Elegy on the Times," being his criticism on the Boston Port Bill and other Colonial topics appeared.

In 1774 he published the first two cantos of "McFingall," in which he satirized the extravagances of the Americans, which was enormously popular with the people and gave him a world wide reputation. He was joint author with Humphrys, Barlow and Hopkins of "Anarchiad."

He was judge of the Supreme Court of Connecticut from 1801 to 1819.

HON. JEREMIAH G. BRAINARD.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1806—1829.

The father of the poet Brainard, a member of the old County Court from 1807 to 1829. He was an Associate Justice of the Supreme Court of Connecticut from 1806 to 1829.

HON. SIMEON BALDWIN.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1806—1818.

Justice Baldwin was born in Norwich, Conn., December 14, 1761, graduated at Yale College in 1781; was preceptor of the Academy in Albany in 1782, and the next year returned to New Haven as a tutor. He continued in this position for three years, and then read law with Judge Charles Chauncey. Admitted to the bar in New Haven in 1786, and settled in the city of New Haven to practice his profession. In 1790 he was appointed clerk of the District and Circuit Courts of the United States for the District of Connecticut, and remained in the office until November, 1803, when he was elected a representative in the Eighth Congress. Declining a re-election as representative, he was appointed to his former clerkship, but was removed in 1806, by Judge Edwards. The same year he was appointed an associate judge of the Supreme Court of Errors, and continued on the bench till May, 1818. His career on the bench closed, he returned to active practice with his son, Roger S. Baldwin, who had been admitted to the bar three years previous.

In 1802 he was appointed by the General Assembly, one of the commissioners of the Farmington Canal, and was made president of the board. The city of New Haven elected him mayor one year, 1826. Having seen the canal located, made and extended to meet the Connecticut River at Northampton, he resigned his office of commissioner in 1830. His grandson, Simeon E. Baldwin, is on

the present Bench of this court, who is also a grandson of Roger Sherman.

He married a daughter of Roger Sherman, one of the sacred names of Connecticut history. He died in New Haven, May 26, 1851.

HON. ROGER GRISWOLD, LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1807--1809.

Justice Griswold was born in Lyme, Conn., May 21, 1762; he graduated at Yale in 1780, and began his practice in 1783 in Norwich. He returned to Lyme in 1794 and was elected to Congress five successive terms, from 1795 to 1805. In 1807 he was appointed a judge of the Supreme Court of Connecticut. Was presidential elector on the Pinkney and King ticket in 1809. Lieutenant-governor of Connecticut in 1809 to 1811, and in the latter year was chosen governor. He received the degree of LL. D. from Harvard in 1811, and Yale in 1812. He died in the office of governor, October 25, 1812.

HON. JOHN COTTON SMITH, LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1801—1811.

Justice Smith was born at Sharon, Conn., February 12, 1765, and graduated at Yale College in 1783. Studied law with John Canfield, Esq., of Sharon, and was admitted to the bar in Litchfield, March, 1786. He began practice in his native town, and in 1793 was sent to represent it in the General Assembly. He was again returned in 1796, 1797, 1798 and 1799, serving at both sessions in each year.

In the last mentioned year he was clerk of the House during the October session. In May, 1800, he was chosen speaker. He was elected a representative to the second session of the Sixth Congress, being the first session held at the city of Washington. His congressional service continued through the next two Congresses and the first session of the Ninth, when he resigned. In 1805 he was again speaker of the General Assembly, in October, and through 1807 and 1808. In May, 1809, he was elected a member of the Council. In the October following, he was appointed an associate judge of the Supreme Court of Errors. In May, 1811, and in 1812, he was chosen deputy governor, and officiated as governor from the death of Roger Griswold, October 25, 1812, the remainder of the term. In May, 1813, he was chosen governor, and held the office until defeated by Oliver Wolcott, in 1817. In September, 1814, he received from the corporation of Yale College the degree of LL. D. In April, 1813, he was elected a member of the Historical Society of Massachusetts; and in July, 1836, a member of the Royal Society of Northern Antiquarians, in Copenhagen, Denmark. In 1826 he was chosen president of the A. B. C. F. M.; and in 1831, president of the American Bible Society. He died December 7, 1845.

HON. CALVIN GODDARD.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1815—1818.

Justice Goddard was born in Shrewsbury, Mass., July 17, 1768, was graduated at Dartmouth College in 1786, studied law in the office of Jeremiah Halsey, Esq., and was admitted to the bar of New London county at Norwich, in

November, 1790. He settled in Plainfield for the practice of law. He was sent to the General Assembly from his town in October, 1795; October, 1797; May and October, 1798; May, 1799, when he was chosen one of the clerks; in May, 1800, chosen speaker; and in May, 1801, speaker. He was then elected to Congress for two terms, from March 4, 1801, to March 4, 1805, and was re-elected, but soon resigned. In May, 1807, he again represented his town in the General Assembly and was chosen speaker.

In the spring of 1807, he removed to Norwich and continued to carry on an extensive practice. May, 1808, he was elected an assistant, which place he held until June, 1815, when he abandoned it for the position of judge of the Supreme Court of Errors. He held the office until 1818, and went out with the political revolution that supplanted the old charter. In 1819 he was again in the General Assembly as a representative from Norwich. He was State's attorney for the county of New London from 1810 to 1815, and Mayor of Norwich from 1814 to 1831. He died in Norwich, May 2, 1842.

HON. JAMES GOULD, LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1816—1819.

Justice Gould was born in Branford, Conn., December 5, 1770, graduated at Yale in 1795. He then entered the Law School at Litchfield, and was admitted to the bar in 1798, and associated with Judge Reeve as professor of the school. In 1816 he was elected judge of the Supreme Court of Connecticut, holding the office two years. In 1820 he took the superintendence of the Law School, and after the death of Judge Reeve, in 1823, conducted it till

1833. He published "Principles of Pleading in Civil Actions" in 1832. He died in Litchfield, Conn., May 11, 1838.

HON. JOHN THOMPSON PETERS.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1818—1834.

Hon. John T. Peters practiced in Hartford from 1859 till his death in 1884. Was for several years auditor of the city. He was a Justice of the Supreme Court form 1819 to 1834.

HON. ASA CHAPMAN.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1819—1825.

Justice Chapman was born in 1770, graduated from Yale College in 1792, and settled in practice in New Haven. He was the father of Charles Chapman, Esq., of Hartford. In 1819 he was appointed a judge of the Supreme Court of Errors, and died in office, September 25, 1825.

HON. WILLIAM BRISTOL.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1819—1826.

A New Haven lawyer who was graduated at Yale College in 1798, admitted to the bar in 1800 and was judge of the Supreme Court of Errors from 1819 to 1826. He died in 1836.

HON. JAMES LANMAN.

1826—1829.

Justice Lanman was born at Norwich, Conn., June 14, 1769. He graduated at Yale College in 1788, and studied with Roger Griswold, Esq., then a practicing lawyer at Norwich. Admitted to the bar in 1791, and settled in practice in his native place. Was attorney for the State of New London county from 1814 to 1819, represented the town of Norwich in the General Assembly in 1817 and 1832, was a member of the Senate of that State in 1819, and represented his State in the Senate of the United States from 1819 to 1825; he was a judge of the Superior Court, and of the Supreme Court of Errors, from May 1826, to 1829. He was also a member of the convention which formed the Constitution of the State in 1818. His death occurred at Norwich, August 7, 1841.

HON. ELISHA CARPENTER.

EX-JUSTICE SUPREME COURT OF CONNECTICUT, HARTFORD, CONNECTICUT.

1866—1894.

Elisha Carpenter was born in Ashford, Windham county, Connecticut, January 14th, 1824. His father was Uriah B. Carpenter, a farmer in moderate circumstances. He was of English descent, of a numerous family both in England and in this country. William Carpenter and three sons emigrated to this country in 1642, and settled in Massachusetts, just east of Rhode Island. A generation

or two later some of their descendants settled in eastern Connecticut. No one of the name became famous or particularly wealthy; on the other hand, so far as is now known, no one belonged to the criminal or vicious classes; but all were respectable and law abiding citizens.

His mother's name was Marcia Scarborough. The Scarborough family, too, was prominent in England, and numerous in this country. What has been said of the Carpenters is equally true of them. The two grand-fathers of Judge Carpenter, although quite young, were soldiers of the revolutionary war. Both died before he was born, but their widows lived about a quarter of a century after, and were pensioners. Both families were somewhat noted for their longevity.

As has been said, the father of Judge Carpenter was a man of small means. His main occupation was tilling the soil, although he held the most important offices in the gift of the town—select man, justice of the peace, judge of probate and representative in the General Assembly. His main reliance for the support of his family was the farm; and that required unremitting toil, economy and good management. Nearly everything—food and clothing—came directly or indirectly from the farm.

Flax, the direct product of the soil, supplied clothing for the family during the summer; wool produced by the flocks kept on the farm, supplied it in winter. Both were substantially made into cloth, and, to a considerable extent into garments, by the female members of the household. The feet were protected from the cold by hides produced on the farm, and converted into leather by the local tanner. Boots and shoes were made by the male members of the family. Such was life in rural New England in 1824, and for some twenty years afterwards.

As will be inferred, the means of education for persons

so situated were limited. The main reliance for the public schools was the school fund, the income from which was barely sufficient to maintain a school for four months in the year. Judge Carpenter commenced teaching in the district schools before he was seventeen; and continued, mostly in the winter, for about seven years. His summers were occupied in farming, in the academies of that day, and in studying his profession. He fitted for college; but he graduated only in an informal manner from the common schools and the academies. Could he have had access to books as the young people of to-day have, it would have been to him almost a liberal education.

He studied law in the office of Jonathan A. Welch, Esq., in Brooklyn, Conn., and was admitted to the bar in that county in December, 1846. He commenced the practice of law in his native town, in the Village of Eastford, in January, 1847.

In March, 1851, he removed to Danielsonville, succeeding the Hon Thomas Backus, who then retired from the practice of law. In the same year he was appointed States Attorney for Windham county, which office he held for one year. In 1854 he was re-appointed, and held the office until he was promoted to the Superior Court bench, in July, 1861.

In 1857 and in 1858 he was a member of the State Senate. In the latter year he was chairman of the judiciary committee, and president *pro tem.* of the Senate. In 1861 he represented the town of Killingly in the lower branch of the General Assembly, and was House chairman of the committee on Military Affairs. Judge Briscoe, of Enfield, was the Senate Chairman. Among the other members of that committee were William B. Wooster, William P. Burrall and Gen. Elihu Geer. At the opening of that session there was no law in the State by which the Executive

could turn over to the general government any portion of the military power of the state. Governor Buckingham, however, who shirked no responsibility, acting upon advice, especially the advice of Lieutenant-Governor Julius Catlin, of Hartford, who volunteered to back him pecuniarily, if necessary, had already placed several regiments at the disposal of the government, which were then in the field. The military committee, realizing the importance of prompt action, prepared a bill legalizing the previous action of the Governor, and providing for the future, which bill became a law during the first week of the session, and continued the ground work of legislation on that subject during the war.

In 1865 Judge Carpenter was promoted to the Supreme Court of Errors, succeeding Judge Dutton, who retired by constitutional limitation, February 11th, 1866. He was re-elected for four successive terms, of eight years each, remaining upon the Bench until he became seventy years of age, January 14th, 1894, holding the office for twenty-eight years of continuous service, a longer time than any other judge since the adoption of the constitution. Up to 1889, for a period of more than twenty-three years, he was the youngest man on the bench.

He was a member of the State Board of Education from 1865 to 1883. He was also for four years a member of the State Board of Pardons.

HON. LAFAYETTE SABINE FOSTER.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.

1870—1876.

Judge Foster was a descendant of Miles Standish and was born in Connecticut in 1806.

Admitted to the bar in 1831, he was elected to the State Legislature in 1830, 1840, 1846, and was speaker in 1847, 1848 and 1854.

He was United States Senator from Connecticut from 1855 to 1867, and served on the Committees on Land Claims, Public Lands, Pensions, the Judiciary, and Foreign Relations.

He was President of the Senate from 1865 to 1867, and was acting vice-President as such, at one time.

He was Speaker of the Connecticut Assembly in 1870, and was a judge of the Supreme Court of the State of Connecticut from 1870 to 1876. He died in 1880.

HON. JAMES PHELPS.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1873—1875.

Born in Colebrook, Conn., January 12, 1822, the son of Lancelot Phelps and Elizabeth Sage Phelps, Justice Phelps was the seventh in direct descent from William Phelps, who came from Plymouth, England, to Dorchester, Mass., and from there to Windsor, Conn., and was the William Phelps who was a member of the first court held in Connecticut, under the old one-year commission from the General Court at Massachusetts Bay. The grandfather of James Phelps, was Lancelot Phelps, a volunteer soldier at different periods of the Revolutionary War. Educated at the Episcopal Academy of Connecticut, he studied law in the offices of Hon. Isaac Toucey, of Hartford, and Hon. Samuel Ingham, of Essex, and at the Yale Law School. He was admitted to the bar at Middletown in 1844. He was a member of the lower house of the General Assembly in the years 1853, 1854 and 1856, and of the upper house in 1858 and

1859. From 1863 to 1873 he was a judge of the Superior Court, and also from 1885 to 1892. He was a judge of the Supreme Court of Errors from 1873 to 1875, when he retired from the bench to become a representative in Congress from the Second Congressional District. He continued in Congress from 1875 to 1883. He married September 30, 1845, Lydia A. Ingham, daughter of Hon. Samuel Ingham and Lydia Wilson Ingham.

HON. DWIGHT WHITEFIELD PARDEE.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1873—1890.

Born in Bristol, Conn., in 1822, Justice Pardee was the son of Jared W. Pardee, a prominent physician. At the age of fourteen he entered Trinity College and was graduated in 1840. He studied law with Isaac Toucey, Esq., and at the Yale Law School, and was admitted to the bar in 1846. He settled at once in Hartford, and was for a time in partnership with Mr. Toucey. In 1863 he was elected a judge of the Superior Court, and in 1873 advanced to the Supreme bench. For two successive years he represented the Hartford District in the State Senate. In 1878 Trinity College conferred upon him the degree of LL. D.

He was a very modest man of a retiring disposition. He rarely appeared on a public platform or took an active part in public meetings. He was quiet in his demeanor, positive in his views but never aggressive in declaring them, a shrewd and intelligent observer, but keeping his comments, always keen and racy for private conversation. He was tall and slender, and in the latter years of his life his abundant hair and beard, whitened by age, gave him a striking appearance upon the bench and in the street.

He was a man of the highest moral tone. No one ever imputed to him an unworthy motive. He was a man of absolute and scrupulous integrity and had the unlimited confidence of the public as such. He had a clear comprehension of legal principles and a thorough mastery of the law as a science. His opinions are written in language of great condensation and vigor, often epigrammatic and quaint in its incisiveness and point, always clear, always freighted with meaning, and of a high literary quality.

He was a devoted member of the Episcopal Church, and a faithful and devout attendant upon its religious services. At the time of his death he was a senior warden of St. John's Parish, in Hartford. In 1847 he married Miss Henrietta Porter, daughter of Solomon Porter, for many years one of the prominent citizens of Hartford. She died in 1863. His own death occurred at Hartford, October 6, 1893.

HON. DWIGHT LOOMIS, LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1875—1891.

Mr. Justice Dwight Loomis was born at Columbia, Conn., July 27, 1821, the son of Elam Loomis and Mary (Pinneo) Loomis. His father was a native of Columbia and his mother of Hanover, N. H., and a descendant from French ancestry. His education was that afforded by the common schools of his native town, supplemented by attendance at the academies at Munson and Amherst, Mass. His education and reading qualified him for teaching, and he pursued this occupation for a time. Early in the year 1844 he began the study of law in the office of John H. Brockway, Esq., in the town of Ellington. He then entered the

Yale Law School and was there graduated in 1847. Returning to Ellington he formed a partnership with Mr. Brockway, and commenced the practice of his profession at Rockville. In 1851 the town of Vernon sent him as its representative to the General Assembly, and in 1857 he was elected a member of the State Senate, serving as chairman of the Judiciary Committee. The year before he had been a delegate to the National Republican Convention and had assisted in the nomination of John C. Fremont. In 1859 he was elected a representative in Congress from the First District as a Republican, and re-elected in 1861. He served as chairman of the Committee on Expenditures in the Treasury department, was a member of the Committee on Agriculture and of the Committee on Elections.

In 1864 he was elected a judge of the Superior Court. He was re-elected in 1872, and in 1875 promoted to the bench of the Supreme Court. He remained on the bench until he reached the constitutional limit of age, and upon his retirement, in 1891, was appointed by the General Assembly to be a State referee. He is one of the committee to whom the Legislature referred the matters in dispute between the State, Yale University and the Storrs Agricultural School. He has recently been appointed a member of the State Board of Mediation and Arbitration. From 1892 to 1894 he acted as professor in the Law Department of Yale University, and the degree of LL. D. was conferred upon him by that University.

HON. MILES TOBEY GRANGER.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1876—1887.

Born in New Marlborough, Mass., August 12, 1817, Justice Granger was the son of James L. Granger and Abagail Tobey Granger. Among the Granger family from which he came was Gideon Granger, postmaster-general under President Jefferson. He was graduated from Amenia Seminary and, in the class of 1842, from Wesleyan University. After leaving the University he went south and "studied law in the woods of Louisiana," without tutor or instructor. He had been cast upon the world when ten years of age, owing to reverses of fortune met by his father. His first work was in a Norfolk woolen mill at twelve and a half cents a day. By great industry and economy he was able to secure a college education, and, this completed, was again adrift without a business or profession. In his search for employment he finally drifted to the south and found a situation as teacher on the plantation of Francis A. Evans. He read law during his leisure hours, riding twenty miles on horseback for books. He was examined for admission to the bar of Mississippi by Charles C. Cage, a judge of the Superior Court and was admitted, April, 1845. The following June he returned to Canaan and entered the office of Hon. Leman Church as a student. Admitted to the Litchfield bar, October, 1845. He was judge of probate some seventeen years, was a member of the Legislature in 1857, a senator from the Seventeenth District, in 1866, and again in 1867, and was chairman of the Judiciary Committee. Later the degree

of LL. D. was conferred upon him by Wesleyan University. In 1867 he was elected a judge of the Superior Court and in 1876 was advanced to the Supreme Court bench. The latter position he held till March 4, 1887, when he resigned to take his seat as a member of the Fiftieth Congress. Judge Granger has presided on the bench in many notable trials, among them that of the State v. the Malleys and Blanche Douglass for the murder of Jennie Cramer.

October 21, 1846, he married Caroline S. Ferguson, of Sheffield, daughter of Samuel Ferguson and Mary Rood Ferguson.

HON. SIDNEY BURR BEARDSLEY.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1887--1889.

Born at Monroe, Conn., in 1823, the son of Cyrus H. Beardsley, Justice Beardsley was for several years judge of the County Court of Fairfield county. He prepared for college and entered Yale, but did not graduate, and was admitted to the bar of Fairfield county in 1843. He began the practice of law in Norwalk, but soon removed to Bridgeport where he resided the remainder of his life. He was elected to the State Senate in 1858, and received the nomination for Congress in 1869 upon the Republican ticket against William H. Barnum, but was unsuccessful in the election. These are the only political offices that he ever held or aspired to.

In 1874 he accepted a seat on the bench of the Superior Court, from which he was elevated to the Supreme Court of Errors in March, 1887. The last position he held until November 1, 1889, when failing health caused his resigna-

tion. He had very little personal ambition, and his best professional efforts were always called out by his interest for his clients rather than by any desire to add to his own reputation. He was entirely unassuming and wholly without pretension, and seemed indifferent to those honors that most men are so eager to obtain. His mind was symmetrical, well balanced and comprehensive, and he almost invariably reached the right conclusion, apparently by a sort of intuition. He was a strong advocate, not indulging in flights of eloquence, nor addressing the passions or emotions of a jury, but in plain, concise and vigorous language he appealed to their intelligence and common sense. While at the bar he had a large clientage, and was retained in most of the important cases that were contested in his county. He was a favorite with the members of the bar, and as courteous as he was congenial. As a judge he had few equals. He was endowed by nature with a legal mind. He had a keen appreciation of what constituted judicial integrity, and the faculty of discerning what belonged to equity and good conscience. He was a man of fine social qualities and was always a welcome attendant upon the festive gatherings of his professional brethren, and an attractive guest at private hospitalities, while he found much pleasure in receiving his friends at his own attractive home.

He married in his early manhood, Anna Eliza Daskam, of Norwalk. He died at Bridgeport, April 21, 1890.

EDWARD WOODRUFF SEYMOUR.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1889—1892.

Born at Litchfield, August 30th, 1832, the son of Chief Justice Origen S. Seymour, and nephew of George C. Woodruff, Esquire, of Litchfield. He was graduated at Yale in 1853, and admitted to the bar in Litchfield in 1856, where he continued to practice until 1875, when he removed to Bridgeport. He there formed a partnership with his younger brother Morris W. Seymour, with whom he was associated until 1889, when he was appointed a Judge of the Supreme Court of Errors. For several years he was Judge of probate in Litchfield district. He represented Litchfield in the General Assembly, in 1859, 1860, 1870 and 1871. In 1876 he was a member of the State Senate. From 1882 to 1886 he represented his district in the United States Congress. He was a senior warden of St. Michael's Church, and prominent as one of the representatives of the Diocese of Connecticut in the general Conventions.

As a lawyer he was thorough, quick in perception, sound in reflection, pleasing and effective in speech. He prepared his causes conscientiously. His knowledge of man, his quick wit, his rare appreciation of humor and humorous things, his abounding good judgment, his intellectual alacrity in emergencies, and his courage in a crisis, gave him a fine outfit for practice. He cross-examined a witness always with skill and sometimes with genius. As a Judge he was accurate, logical, penetrating, intuitive and full of that common sense which is the judicial wisdom. His career as a lawyer and judge strengthens our attachment to the profession which he adorned.

He married Mary Floyd, daughter of Recorder Frederick A. Tallmadge, of New York City.

He died at Litchfield, October 16th, 1892.

AUGUSTUS HALL FENN.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.
1883—1897.

Born in Plymouth, Conn., January 18, 1844. Justice Fenn was the son of Augustus L. Fenn and Esther (Hall) Fenn. He was educated in the common schools of Plymouth and at the Waterbury High School. Studied law in the office of A. Giddings, Esq., at Plymouth and with Kellogg and Terry, at Waterbury, and at the Harvard Law School. Admitted to the bar of Litchfield county, February 15, 1867. He was city clerk at Waterbury in the year 1867; town clerk and judge of the probate of Winchester, from 1881 to 1887. He was member of the General Assembly in the year 1884; a member of the committee to revise the probate laws in 1885, and also of the committee which prepared the last revision of the statutes in 1888. In 1887 he was elected judge of the Superior Court, and held the position until 1893, when he was promoted to the Supreme Court bench. In 1862 he enlisted for the war, and was advanced by well earned promotions through grades in regular order from lieutenant to brevet colonel, serving in the field three years.

His first wife, whom he married in 1868, was Frances M. Smith, daughter of John E. Smith and Hannah (Bostwick) Smith, of Waterbury. His second, whom he married in 1879, was Mary E. Lincoln, daughter of Franklin Lincoln and Lucile (Dailey) Lincoln, of Winsted.

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From advance sheets Supreme Court of the States and Provinces of North America.

THE SUPREME COURT OF RHODE ISLAND.

BY CLARK BELL, ESQ., LL. D., OF THE NEW YORK BAR.

Colonial Period.

The charter granted by the English Parliament to Roger Williams, was the basis of all lawful power, in the colony he founded in Rhode Island.

The first settlers of Rhode Island, founded, not a single state, but four separate communities, viz: Providence, in 1636; Portsmouth, in 1638; Newport, in 1639; and Warwick, in 1642. Each of these communities regulated its own affairs, independently of the others. There seems to have been no government prior to 1647 or judiciary in the Warwick community. Samuel Gorton was their leader, and they did not believe they had the right to create a government, even for themselves, without the sanction of the mother country.

Chief Justice, Thomas Durfee, in his "Gleanings from the Judicial History of Rhode Island," says of this community during this period (1642 to 1647,) that they probably had recourse in their private differences to arbitration, but how they managed to repress crime, and preserve the peace for five years is not easily conjectured.

In the Providence plantations a different idea prevailed. Having purchased the land from the Indians, they established by mutual agreement a government, under which the settlers agreed to be governed, by "the major consent" of the freemen of the town "only in civil things." Their judicial and public business was transacted in town meet-

ings, which not proving quite satisfactory, they adopted in 1640 a plan for compulsory arbitration.*

The settlers at Portsmouth at first organized, as a religious community, and they chose a judge to exercise authority over them, but they did not define his powers. The early records show that in the first year of the settlement, seven men charged with "a riot of drunkenness" were tried for this offense, not before the judges so chosen, but in town-meeting and condemned severally according to their guilt to pay fines, and sit in the stocks. The early records show that a whipping post and a pair of stocks were ordered for Portsmouth in August, 1638, and that in December of the same year a prison was built. The freemen in town meeting, made an order to seize the house and goods of an absconding debtor, to satisfy the claims of his creditors, and before the first year closed three elders were associated with the judge, to assist him in administering justice and drawing up rules and laws, who were to make a quarterly report of their proceedings to the town meeting for revision.

At the beginning of the second year a part of the community migrated to the south end of the island, and founded Newport. Those remaining at Portsmouth then acknowledged themselves as the legal subjects of King Charles, and organized what they styled, "a civil body politic, unto his laws according to justice." They continued the office of judge, increased the number of elders as associates, with judicial powers, and provided for a jury trial in the weightier cases, and this ended the town meeting jurisprudence.†

At Newport a judge was chosen with elders, the judge having a double vote. The second year the two towns

*Durfee's Judicial History of Rhode Island, page 2.

†Durfee's Judicial History of Rhode Island, Pages 3-5.

united in a common government, the judicial powers were vested in a chief magistrate, styled a governor, two assistants from one town, and a deputy governor, and two assistants to be chosen from the other. Courts were ordered to set every quarter alternately at Newport and Portsmouth with powers to judge and determine all such cases and actions as should be presented.*

I am unable to learn anything regarding the action of the settlers at Warwick, as to their judicial procedure, prior to the act of the general assembly at Portsmouth, in 1647, in which the representatives of Warwick took a part, the same as those of the four other towns.

When the representatives of the people from all the communities in which the mainland united with the island towns, met in General Assembly in 1647, at Portsmouth, twenty years after the May Flower landed at Plymouth, that body adopted this charter and under its provisions, organized a form of government under that remarkable piece of colonial legislature, which had its origin on the island, "the code of 1647," which established a general court for trials, that prior to the establishment and organization of the present Supreme Court of Rhode Island, exercised the highest judicial powers and authority. The chief officers of government under the first charter were a president and four assistants, one from each town. It was their duty to hold twice yearly the General Court of trials for the whole colony. Among the earliest names of those who sat upon that bench were Roger Williams, William Coddington, John Clark, Samuel Gorton and other eminent men of Rhode Island.

This court was itinerant in its sessions, and the smallness of the State made it more convenient to sit in all the different larger towns of the colony. The code of 1647

* Durfee's Judicial History of Rhode Island, page 5.

enacted, that in whatever town the court should be held the head officers of that town should sit with the judges for their counsel and help. Their powers, however, were advisory, merely, without a vote, which not meeting with favor in 1650, an act was passed giving them "equal authority to vote and act with the general officers."

The jurisdiction of the court was at first purely original, in the cases too important to be tried before the town officers, it had exclusive jurisdiction of high crimes, and of cases between town and town; of cases between parties living in different towns; of cases against parties belonging to neighboring colonies; and all matters of judicial cognizance, which were not referred to the inferior courts, and it certainly exercised appellate or revisory jurisdiction over the lower courts after 1650 and probably before that date.

These enlarged powers, did not meet with popular approval, for in 1651, it was enacted that all causes except prosecutions for certain crimes of the highest grade, should be tried in the first place in the town courts, with power in the general court to review the same on appeal, and the powers of the court and its methods of procedure were defined and regulated by legislative enactments. In 1663, a Royal Charter was granted the colony of Rhode Island by King Charles II, which vested all the powers of the government in the governor, deputy governor, ten assistants, and a body of deputies, who, when convened, constituted the legislature of the colony, as a General Assembly, and under this charter, that body, when convened in general assembly, was clothed with full governmental power, and power to create and organize the judiciary without any restriction. The functions of the deputies were purely legislative; those of the governor and assistants magisterial as well.

In the exercise of the powers thus conferred by the royal charter, the first General Assembly convened under it; and organized and established a general court, which was called a "General Court of Trials," which held two sessions each year at Newport, and which exercised the powers of the Supreme Court of the colony, until its re-organization in 1829. This court was composed of the governor, or his deputy-governor, with at least six out of the ten assistants. The General Assembly also provided for special courts for urgent occasions and for a court at Providence and Warwich for "the trial of any actionable matter to the value of and under ten pounds debt or damages" to be held by three assistants every six months alternately in Providence and Warwick.

There were no salaries paid to these officials acting as judges, and the better accounts show, that the practical working of this court was crude and unwieldy. The General Assembly reduced the number of Assistants necessary to constitute a quorum to three, provided for fining those who did not attend, and paid a small gratuity to those who attended.

The practical working of this unwieldy court, which was presided over by the executive, or his deputy, who were frequently neither lawyers nor men of judicial training, gave dissatisfaction. The assistants were, it is true, provided to be elected by the people of the towns, but the old system of town courts was superseded, and the administration of justice placed upon a lower standard, than under the old charter. The act of 1663, constituting the General Court of Trials, did not define the jurisdiction, but the charter of Charles II. continued in force all statutes not repugnant to the laws of the realm. Ex-Chief Justice, Thomas Durfee, says of it, that it may have been understood that the old system survived, and that the court, as

newly officered, was a continuation of the former court of the same name. This, however, is not clear, for the old court held its sessions in all the towns; the new one only at Newport; and the town officers who sat in the old court did not sit in the new.

The old court became mainly a court of appeal; whereas the new court appears to have exercised more original jurisdiction, and the provision for a special court for Providence and Warwick seems somewhat inconsistent with an unbroken continuance of the old order of things.

While the exact jurisdiction of the several courts of this period, their exact relations to each other, the methods of procedure on appeal, or of correction of the action of the lower courts may be obscure and in some doubt; it is quite clear that the powers of the court under the charter, which they had the right and power to continue and interpret, with the internal power of all courts, to make and enforce rules for the regulations of all questions of procedure on both trials and appeals, that the judges, who, as members of the legislature, helped to make the enactments, would and did so construe the meagre legislation of the colony and their powers and practice under it and under the charter, in such ways as would render their actions effectual, practical, and such as to best meet the wants and needs of the people.

It was not, however, until 1729, that the re-organization of the colony was effected, by dividing it into three counties, viz: Newport county, containing the islands of the Bay and Block Island; Providence county, containing the old towns of Providence, Warwick and East Greenwich; and Kings county, containing the old towns of North Kingston, South Kingston and Westerly, with Kingston as the Shiretown.

The Criminal Courts were called "Courts of General

Sessions of the Peace," and the civil courts were called "Courts of Common Pleas." In each of the three counties, a civil and criminal court was established, having original jurisdiction in all civil cases and in all criminal trials except in capital cases.

The higher court, under this system, became a Court of Appeals, or review from the inferior county jurisdiction, having original jurisdiction only in capital cases. It was styled "The Superior Court of Judicature Court of Assize and General Gaol Delivery," and its sessions were held at Newport only.

It must be regarded as remarkable, that a court of last resort in such a community, as the colony of Rhode Island then was, thus constituted, when the Governors, the Deputy Governors, and the ten assistants, all of whom were members of the Legislature; without any provision, that they should be lawyers or men of any legal training, should remain undisturbed by the people for the period of nearly one hundred years. This constituted one of the reasons which ultimately led to its overthrow.

The preponderance of a political party might throw the court into the adherence of that faction, and if any member of this court, chosen for political reasons; if by any accident he was peculiarly fitted for judicial service; he could not be retained for judicial service after his party ceased to reflect popular sentiment. On the other hand, the Court being Appellate only, and the cases having been tried in the Common Pleas, before judges selected for their judicial character and legal attainments, appeals were doubtless rare, and the cases easy of decision, even by laymen of which the court was frequently mainly composed.

The fact, that this court sat at Newport, while thought by many to be a grave objection to its permanency and usefulness, may have been one of the most potent factors in

explaining why the court remained stationary for more than eighty years, while its sessions were held in that city. Newport was then the chief city of the colony in wealth, population and especially in social influence. It was by far the most accessible point in Rhode Island. Before the era of steam facilities for travel, its accessibility by water was unparalelled and no town in Rhode Island, equalled it in political importance. It had a flourishing commerce and in all respects held the same relative social position to the wealth, culture, higher civilization and fashion, with the chief cities of America and the highest type of intellectual life, that it has since always maintained and now holds.

Judge Durfee in his work, says: "That the salutary influence of Newport on the early history of the State has never been fully appreciated." He says also: speaking of this colonial period, "There was in Newport a higher civic or commercial sentiment, a more educated public spirit, a profounder political consciousness, resulting in a more habitual, as well as a more intelligent reverence for law and government, than elsewhere in the colony."

The best lawyers lived there. During all but fifteen, of the first seventy-seven years under the second charter, the Attorney Generals were Newport men. The ablest politicians and public men lived there.

During all but twenty-three of the first hundred years, under the second charter, the governors were Newport men. There the General Assembly met annually for its most signal and indispensable business.

The leading men of every part of the colony were thus continually introduced to a purer civic and political atmosphere and continually exposed to the influence of a more cultivated and homogeneous society. The result could not be other than good. The same influence which prevailed

with the general assembly, acted in like manner on the court, liberalizing the minds of judges, lawyers and litigants and benefitting the judges especially, by bringing them into familiar intercourse with the ablest jurists of the colony."

The popular demand for a Supreme Court upon a basis more in accord with the other American colonies, to be placed in the hands of judges selected for their fitness for judicial duties, at last overcame the resistance of this strong force in the Colonial Legislature, who, from the character of their official position and relation to the government of the colony and their numerical strength in the general assembly, had been loth to surrender the judicial power, they had so long enjoyed, and which, in the nature of things, was peculiarly attractive and agreeable to political leaders and statesmen, especially such as were not of the profession of the law—whatever may have been the causes.

This should be regarded as the beginning of the Supreme Court of the colony, for under the system that had hitherto obtained, under the Royal Charters no decisions were reported and no record kept of important cases. The governors and the deputies were selected for political considerations rather than for judicial fitness, and it was not until the Act of 1729, more than a century after the landing of the Pilgrims, that this court was properly organized as such. The court, as then constituted, was not yet any part of the Colonial Government.

Under the period of the charters, the upper house of the colonial legislature constituted the Superior Court, and as such exercised judicial, as well as legislative powers; it was not until February 1747, that the judiciary of Rhode Island was recognized by Act of the General Assembly, as a separate branch of the Colonial Government. This act

revolutionized, and substantially re-organized and established the Supreme Court of the State, which was made to consist of a chief justice and four associates (any three being a quorum) to be annually chosen by the General Assembly, and enacted that two sessions of the court should be held annually in each county.

As an indication of the complete revulsion in the popular feeling, it is worthy of notice that after the Highest Judicial powers of the State had been exercised for more than a century by members of the Legislature acting as Judges, under its authority, the General Assembly enacted, that no member of either house should sit upon the Supreme Bench, declaring by preamble, that it was incompatible with the Constitution of the State for Legislative and Judicial powers to be united in the same person; and in May 1783, the General Assembly, by enactment, excluded Judges of the Court of Common Pleas of the State, from seats in the General Assembly. It is remarkable that the General Assembly consented to the preamble, or the Act of 1780, when the charters, while not conferring judicial power upon the General Assembly, had authorized it to provide by enactments for the exercise of the powers thus conferred by the charters, and the members of the Legislation had always exercised those powers since the organization of the Colonial Legislations.

Chancery and Equity Jurisdiction.

Chancery or Equity powers, were by both charters conferred upon the General Assembly, or more correctly speaking, the power to create and organize courts of Chancery and the exercise of Equity jurisdiction was thus conferred. No Court of Chancery was ever created in Rhode Island; there never was a Chancellor in that State.

In exercising the powers granted by the charters, when creating the courts by enactments under its provisions, the

General Assembly retained for a long time full Chancery jurisdiction and powers. These were very slowly relinquished by the General Assembly, and with apparent reluctance; and they were very slowly acquired by the Supreme Court.

The first grant by the General Assembly was made in 1667, and was simply a grant of power to proceed where any penalty, conditional estate, or equity of redemption was sued for, according to rules of equity, and to chancerize forfeitures.

In 1798, the Supreme Court was empowered by the General Assembly to entertain a bill to redeem; and in 1822 a bill for foreclosure together with jurisdiction on appeal from town councils, relating to property held for charitable uses.

In 1749 the Superior Court was authorized to grant divorces in certain cases, and in 1798 the causes of divorces were more specifically enumerated, in language, almost identical with the present State law; that body retained jurisdiction in cases of divorce as late as 1843, when the new constitution was adopted.

Prior to 1832 jurisdiction in Insolvency was exercised by the General Assembly except for brief periods, independently of the courts; when it was by enactment conferred upon the Supreme Judicial Court, with the right of review to the General Assembly.

Insolvent appeals were taken until 1857, when it was decided in the case of Taylor vs. Place, that the provision authorizing appeals was abrogated.

In 1829 jurisdiction in the court was extended by enactment to all cases relating to trusts created by assignments, for the benefit of creditors. In 1836 jurisdiction was granted to the court in relation to all trusts however created; to controversies between co-partners; to proceedings

against banks for forfeiture of charter, and for liquidation. In 1837 to actions against railroads and turnpike corporations, to restrain them from violating their charters; and in 1841 the court was vested by the General Assembly with full equity powers in cases of fraud.*

Judge Durfee, in his work says: that the need of chancery jurisdiction in the court was very great, and that there was apparent reluctance on the part of the General Assembly to concede the powers to the court; but Rhode Island was so small a State, and so wedged in between Massachusetts and Connecticut, that it was easy for any citizen of the State, to effect a change of citizenship, and sue in the Circuit Court of the United States; that this was constantly done; and that Judge Story who presided at the Circuit, was a favorite Judge before whom such cases were usually brought.

Some proceeded before the General Assembly itself, and he quotes the celebrated John Whipple of the Bar, whom he says once declared (in his exaggerated way) speaking of the General Assembly, "that it was the best Court of Chancery in the world."

Thus, owing to the small size of the State, enabling its people to obtain relief in other jurisdictions; the popular distrust of equity, with its unfamiliar procedure; the popular liking for the common law; the trial by jury; and the reluctance of the General Assembly to relinquish its power; the giving of full chancery jurisdiction to the Supreme Court, was continually deferred and postponed, until the adoption of the Constitution of 1843, except in the cases hereinbefore enumerated.

The equity powers are now vested in the Supreme Court, and by assignment these powers are in the main administered by the Appellate Division of that court, composed of

*Judge Durfee's Judicial History of Rhode Island, pp. 22, et seq.

the Chief Justice and three assigned Associate Justices, who sit in banc as a Court of Review and also as a Court of Equity.

Period of Statehood.

The events following the American Revolution and the Declaration of American Independence, in July, 1776, may be fixed, as the initial period of the formation of the State of Rhode Island.

She ratified the action of the Continental Congress, in forming the government of the United States on the 19th of July, 1776, by the adoption of a resolution by the General Assembly, approving the resolution adopted by the Continental Congress, on July 4, 1776, and organized as a State, throwing off all allegiance to the English throne, with the same legislative and judicial organization as had existed within her boundaries before the Revolutionary war.

The powers of the General Assembly and of the Judiciary, were substantially the same in all respects in the new State as had existed in the colony before statehood and while several attempts to adopt a State Constitution after Rhode Island had ratified the Constitution of the United States of America, were made; no constitution was adopted until the second of May, 1843.

This instrument defined the powers of the Judiciary as follows:

ARTICLE X.

Of the Judicial Power.

Section 1. The Judicial power of this State shall be vested in one Supreme Court, and in such inferior Courts as the General Assembly may, from time to time ordain and establish.

Sec. 2. The several courts shall have such jurisdiction as may from time to time be prescribed by law. Chancery powers may be conferred on the Supreme Court, but on no other court to any greater extent than is now provided by law.

Sec. 3. The judges of the Supreme Court, shall, in all trials, instruct the jury in the law. They shall also give their written opinion upon any question of law whenever requested by the Governor or by either house of the General Assembly.

SEC. 4. The judges of the Supreme Court shall be elected by the two houses in grand committee. Each judge shall hold his office until his place be declared vacant by a resolution of the General Assembly to that effect; which resolution shall be voted for by a majority of all the members elected to the house in which it may originate, and be concurred in by the same majority of the other house. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at such session the judge shall hold his place as is herein provided. But a judge of any court shall be removed from office if, upon impeachment, he shall be found guilty of any misdemeanor.

SEC. 5. In case of vacancy of death, resignation, removal from the State, or from office, refusal or inability to serve, of any judge of the Supreme Court, the office may be filled by the grand committee, until the next annual election, and the judge then elected shall hold his office as before provided. In cases of impeachment or temporary absence, or inability, the Governor may appoint a person to discharge the duties of the office during the vacancy caused thereby.

SEC. 6. The judges of the Supreme Court shall receive a compensation for their services, which shall not be diminished during their continuance in office.

It was not until after 1798, after the Declaration of American Independence, that the court received by legislative enactment, the title of "The Supreme Judicial Court."

The authority vested in the General Assembly of Rhode Island by both the charters, had been absolute in judicial matters, and this power was continually exercised in part, by one branch of that body both in Colonial times and after Statehood under legislative powers as authorized by legislative enactments. It was under these powers that the legislature exercised appellate jurisdiction in cases arising in the Probate Courts and from the Governor and council until near the close of the last century, which power was transferred by the General Assembly to the Supreme Court in 1822.

By judicial construction as late as 1856 it was held; that all judicial powers had been transferred to the Supreme Court and that since the adoption of the constitution of 1843 the judicial power and authority of the state, was transferred to the judiciary of the state.

Since 1847 the court has been designated as the Supreme Court.

Prior to 1875 there were but four judges, but by that Act it was increased to five. May 27, 1891, an Act was passed providing for five associate justices and on May 13, 1897, an Act was passed further increasing the number to six, which is now in force.

The first constitution of the state of Rhode Island, ratified by the people of the state was adopted at a constitutional convention held November 5, 1842, at East Greenwich, voted on and ratified by the people, November 21, 1842, and the state government was organized under it, May 2, 1843. All previous efforts for the state constitution had failed.

In February, 1793, a memorial for a state constitution to the General Assembly of the State had been rejected. A proposal made October, 1797, relative to calling a convention to draft a state constitution, had failed, and a similar movement, made in 1799, met a like fate.

In April, 1821, a proposition to appoint delegates to form a written constitution for the state, was rejected by the freemen, by a vote of 1619 yeas to 1905 nays.

In April, 1822, a similar proposition was rejected by the freemen, by a vote of 843 yeas to 1804 nays.

On January 21, 1824, a convention to form a written constitution was authorized by the General Assembly directing the freemen to assemble on June 21st, in convention. From June 21st to July 3, this convention were in session at Newport and adopted a constitution, which was submitted to a vote in the following October; it was rejected by the freemen by a vote of 1668 yeas to 3206 nays.

In June, 1734, an Act was passed authorizing a constitutional convention at Providence, which met September 1, 1834, and after a session of twelve days adjourned to Nov-

ember 10, 1834, when it again adjourned to February 9, 1835, and then adjourned to June 20, 1836; and never again assembled, and never submitted a constitution to the people.

Under the present constitution, the judges of the Supreme Court are elected by the two houses in the General Assembly in Grand Committee.

The General Assembly have the power by a concurrent vote of the two houses, by a majority vote, of all the members of each house, to remove a judge from the bench; a power which, however, has never been exercised.

The appointment of judges has not always been made with reference to the political faith of the appointee and the appointing power, although it has usually been so for the past fifteen years or more. The late Chief-Justice Charles S. Bradley was a democrat, but was elected by a republican legislature. The same was true in regard to the election of the late Elisha R. Potter, and the late Walter S. Burgess. Hon. George H. Browne, a democrat, was also elected to the office of Chief Justice, by a legislature which was overwhelmingly republican. Mr. Browne, however, refused to accept the office. The present judges are all republicans.

The salary of the Chief Justice is now $5500 per annum, and of the Associate Justices, $5000 each.

One judge constitutes a quorum of the whole court for many purposes, and two judges, by consent of parties, for all purposes, except the trial of constitutional questions. Since 1847 its decisions have been reported.

The present court is composed as follows: Chief Justice, Charles Matteson, and Associate Justices, John H. Stiness, Pardon E. Tillinghast, George A. Wilbur, Horatio Rogers, William W. Douglas and Benjamin M. Bosworth.

An amendment to the law regarding the Supreme Court

was passed in 1897, known as the Judiciary Act. The following are extracts from that law:

CHAPTER 451.

AN ACT IN AMENDMENT OF AND IN ADDITION TO CHAPTERS 221 AND 222 OF THE GENERAL LAWS, ENTITLED "OF THE SUPREME COURT" AND "OF THE APPELLATE DIVISION OF THE SUPREME COURT," RESPECTIVELY.

It is enacted by the General Assembly as follows:

SECTION 1. Section 1, of Chapter 221, is amended so that the same shall ead as follows:

'SECTION 1. The supreme court shall consist of a chief justice and six associate justices, to be elected, commissioned, and to hold their offices as provided in the constitution."

SECTION 2. Section 1, of Chapter 222, is amended so that the same shall read as follows:

"SECTION 1. The appellate division of the supreme court shall be held by the chief justice and three of the associate justices, to be from time to time designated by the chief justice, any three of whom shall constitute a quorum for all purposes, as hereinafter provided, and in case of the absence or disability from any cause of the chief justice, the said court shall be held by the senior in service of the associate justices of the supreme court, who are present and qualified to act, together with two other of such associate justices designated by him."

SECTION 3. Section 3, of Chapter 222, is amended so as to read as follows:

"SECTION 3. Any one justice of the supreme court, assigned to the appellate division, shall be a quorum for all purposes whatsoever, in said appellate division, except for the trial of contested petitions for divorce, and the entry of final decrees therein, petitions for new trial, demurrers, motions in arrest of judgment, writs of error, petitions for mechanic's liens, and all other statutory proceedings following the course of equity, and the hearing of bills in equity, and the entering of final decrees, therein; and one justice shall also be a quorum to enter all orders and decrees including final orders and decrees in bills and petitions in equity, and in statutory proceedings following the course of equity, when decree is to be entered by reason of default or by reason of consent of parties, and where the petition or bill is for the appointment of a new trustee; and also to hear and enter decrees and orders on all interlocutory motions in equity causes and statutory proceedings following the course of equity: PROVIDED, that in all cases certified from the common pleas division, by reason of jury trial being waived, heard in the appellate division, by any justice thereof, either party shall have the right to petition for a new trial in the same manner and with the same effect, as if the case had been heard in the common pleas division, before a justice thereof, sitting with a jury; PROVIDED, FURTHER, that such justice, if the gravity of the matter heard by him under the provisions of this section demand, may reserve such matter for hearing before three justices of such division. Three justices thereof shall be a quorum for all purposes whatsoever in said appellate division, including the final determi-

nation in any action, suit or proceedings, civil or criminal, of any question arising therein under the constitution of this State or of the United States: PROVIDED, that whenever any of the justices assigned to said division, shall for any cause not sit with said division while so assigned, two justices assigned thereto shall, with the consent of the parties in interest in the matter to be heard, constitute a quorum for all business before said division at such time, excepting hearing and determining constitutional questions: AND PROVIDED FURTHER, that whenever practicable as many more than three as possible of all the justices of the supreme court shall sit in the appellate division in the hearing and determination of constitutional questions."

SECTION 4. Said appellate division may be held by different justices thereof, at the same time and in different places, in the same or in different counties, and any justice of the supreme court, assigned to said division, may hear any cause which may be heard by a single justice of said division, under the provisions of this Chapter, while another cause is proceeding before another justice or justices of said division in the same or another county.

SECTION 5. Any justice of the supreme court, assigned to the appellate division as hereinbefore provided, may and shall, from time to time as necessity or convenience may require, whenever designated by the chief justice, serve either in the appellate division or in the common pleas division, as such necessity or convenience may seem to require.

SECTION 6. This act shall take effect from and after its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

THE PRESENT ASSIGNMENT OF THE JUDGES OF THE COURT.

Chief Justice Charles Matteson, and Associate Justices John H. Stiness, Pardon E. Tillinghast and Horatio Rogers are assigned to the Appellate Division, which sits as a court of review and also as a court of equity. All divorce cases are tried by this division, a single justice thereof having jurisdiction in uncontested divorce cases, but three being required in contested cases, except, however, that by agreement of parties, two of said justices may hear and determine any case in said division. In practice only three of said justices sit together, in the trial of causes, except that when questions of Constitutional Law are presented it is customary, indeed the statute requires that in determining such questions as many more than three as possible of all the Justices of the Supreme Court shall sit in the hearing and determine thereof. (Laws of 1897, cap. 451, sec. 3.) In cases of Jury Trial Waived, the same being certified

to this division from the Common Pleas Division, a single justice sits unless, from the gravity of the questions involved, he sees fit to refer the case to the Appellate Division proper. If either party is dissatisfied with the decision of a single justice, he can petition the Appellate Division for a new trial, his decision having the same weight on review, as would the verdict of a jury. The Appellate Division does not sit with a jury. All petitions for a new trial, whether based on alleged errors of law, or other grounds, together with substantial demurrers, exceptions from District Courts, etc., are heard and determined in this division. Mr. Justice Rogers has been assigned to the trial of uncontested petitions for divorce, and jury trials waived, and also sits in chambers for the hearing of all such motions in said division as can be heard by a single justice. The assignment of justices is not permanent, but is regulated from time to time by the chief justices, all the justices being of the same rank. Justices George A. Wilbur, William W. Douglas and Benjamin M. Bosworth, are assigned at present to the Common Pleas Division, and sit in the trial of jury cases. Judge Wilbur sits on the criminal side and has done so since his election. A justice of the Common Pleas Division, usually Judge Douglas goes on the circuit and tries jury cases in the several courts outside Providence county. Most of the business of the Appellate Division is done in Providence, although twice each year this branch of the court is required to hold a session in Newport county and also in Washington county. If a case is tried in review before the Appellate Division, the trial judge who sat in the Common Pleas Division in the case cannot sit in such review. Appeals in civil cases in common law actions are practically done away with in Rhode Island. If a case is tried in the District Court, and either party desires a jury trial, the case is certified as matter of

right, to the Common Pleas Division, where such jury trial may be had. Appeals in criminal cases, in probate court cases, highway proceedings, etc., remain substantially as before the judiciary act.

THE APPELLATE DIVISION OF THE SUPREME COURT.

This division has one session a year, commencing on the third Monday in September, and continuing to the third Monday of July in the following year.

(See Gen. Laws R. I. Revision of 1896, cap. 224.)

It sits in Providence during said period, with the exception that on the third Monday of September and on the second Monday in May it sits at Newport, (usually for a day or two only) and on the second Monday in November and on the second Monday in April, it sits at South Kingston, in the county of Washington, usually for a day or two only.

The present reporter is Thomas P. Barnefield, Esq., of Pawtucket. This division has a clerk in each of the three counties.

Charles E. Harvey, Esq., at Newport.

Bertram S. Blaisdell, Esq., at Providence.

William H. Caswell, Esq., at Narragansett Pier.

Hon. Williard B. Tanner is Attorney General of the State, Providence, R. I.; Charles F. Stearns, Esq., Assistant Attorney General, Providence, R. I.; J. Harry Bongartz is Librarian of Law Library, Providence, R. I.

THE SUPREME COURT OF RHODE ISLAND; EARLY HISTORY.

BY HON. W. P. SHEFFIELD, OF PROVIDENCE, R. I.

In 1747 an act was passed establishing "The Superior Court of Judicature, Court of Assize and General Jail Delivery."

There is no record of the appointment of Justices of this court printed until May, 1757, and then a record of the appointment of John Gardner as Chief Justice only. The office was one of annual appointment, and yet there is no printed record of its being made, except at long intervals, and then only of the Chief Justice, until 1770, when Stephen Hopkins was appointed Chief Justice of that court, and held the office until 1776, when Metcalf Bowler was appointed Chief Justice, and four other persons appear for the first time as having been appointed associate justices, viz.: William Greene, Esq., John Barker, Shearjashub Bourn and Thomas Wells.

In 1777 William Greene was appointed Chief Justice, and four other persons associate justices.

In 1778 Shearjashub Bourn was elected, with four others, William Greene having been elected governor.

In 1781 there was an entire change in the *personnel* of the court. Paul Mumford was chosen Chief Justice. His associates were Peter Phillips, Thomas Tillinghast, Ambrose Page and Pardon Gray.

These were continued in office, with a single change in the associates, until June, 1785, when William Ellery, a

signer of the Declaration of Independence, was chosen Chief Justice, with the four associates.

In 1785 the paper money party got control of the legislature and it elected Paul Mumford Chief Justice, Joseph Hazard, Thomas Tillinghast, Gilbert Devol and David Howell, associates, and upon these judges was devolved the duty of deciding whether or not the Act of the legislature, which made it a crime to refuse to accept paper money as a tender at its par value in gold and silver for any commodity offered for sale, was constitutional.

The case arose out of a purchase of butcher's meats, made by one Everett from Weeden, and upon the tender of paper money therefor by Everett and its refusal by Weeden.

Rhode Island had then a royal charter, granted by King Charles II, by which the privilege of the English Bill of Rights and of Magna Charta were granted to the people of the state. Party spirit never raged with more virulence in the state than it did at that period of history. The populace, deprived of everything tangible by the Revolution and starving for the want of bread, were ready to espouse any cause that afforded any promise of relief, and were for paper money. The court had been chosen by that paper money party.

James Mitchell Varnum was employed as counsel for Weeden. The case was tried, and the court decided that the Act of the General Assembly conferred upon it no power to pass sentence upon the defendant. The General Assembly at once summoned the judges before it to give their reason for declaring the Act of the Assembly unconstitutional. Judge Howell (the only lawyer in the court) with Hazard and Tillinghast, appeared with Varnum and showed cause for their judgment. The Assembly reluctantly dismissed the judges and at the next annual election, in May, 1787, suspended them in office.

Paul Mumford, who had not appeared before the Assembly for declaring its act unconstitutional, was elected Chief Justice, and William West, Stephen Potter, Walter Cooke and Gideon Waite were elected his associates.

In 1788 Justice Mumford was superseded by Othniel Gorton as Chief Justice.

In May, 1790, Daniel Owen, who was lieutenant governor, came into the court as an Associate Justice. He, with his associates, were paper-money men; but no case, involving the validity of the tender of paper money, came before the court after the decision made in 1786.

The next year Daniel Owen ceased to be lieutenant governor and was made Chief Justice of the Court. The Federal Constitution had been adopted.

Authur Fenner had succeeded Governor Collins, and a better order of the government of the State, seems to have taken place.

Authur Fenner, the father of James, resigned the office of Clerk of the Court of Common Pleas and of General Sessions of the Peace in 1790, (May), which was then the most profitable office under the State government, and his son James was elected to succeed him. This was the year after James was graduated, and James continued to hold the office, by annual elections, for fifteen years—until 1805. In this office he acquired the only knowledge of the law which fitted him for Chief Justice. I know Governor Fenner quite well. I served in the legislature over which he presided, during his later term of office, 1843–4. He was a man of imperial will, of strong common sense, conservative in his judgments, and withal a popular leader in his party.

In 1800 Peleg Arnold was elected Chief Justice, and filled the office, with the exception of one year, when Thomas Arnold was elected, until May, 1812, when Gen-

eral Daniel Lyman was elected, with an entire new court. General Lyman had been a gallant officer of the revolution, but was not in accord with the government in the second war with England.

In 1818 an entire new court was erected, of which James Fenner was Chief Justice. In 1819, Isaac Wilbour was appointed Chief Justice, and was annually re-elected until 1827, when the court was reorganized, and these judges were to constitute it, of which Samuel Eddy was the Chief. The court remained thus organized until 1835, when it was determined to do away with lay judge, and that lawyers were thereafter to constitute the court, and Job Durfee was appointed Chief Justice, and Levi Haile and William R. Staples, associates.

Under the constitution of 1842, the judges held their office until it was declared vacant by the General Assembly at its long session, by a majority of each member of the Assembly, and the General Assembly can now declared vacant the office of any judge.

The court remained in tact until the decease of Chief Justice Durfee, in 1848, when Richard Ward Greene was elected to succeed him in office, who held office until 1853, when he resigned, and William R. Staples was elected Chief Justice, Staples continued Chief Justice until March, 1856, when he resigned and Samuel Ames was elected to succeed him, and held the office until his death in 1865. Ames was succeeded in office by Charles S. Bradley, upon the death of Ames, in 1865, and Bradley was succeed by George A. Brayton ; and Brayton was succeeded by Thomas Durfee, who held the office for twenty-five years, and was succeeded by the present Chief Justice Charles Mattison.

John Adams in one of his volumes, gives the characteristics of mind of Stephen Hopkins, who was a signer of the Declaration of Independence. This can easily be

found by referring to the index in the last volume of Adams' works.

Paul Mumford did not appear before the legislature to give a reason for his decision, that the paper money Act of 1786, was unconstitutional, and he was the only member of that court which was re-elected at the next election.

Samuel Eddy was a member of Congress in 1820, and voted for the Missouri compromise, and earned the sobriaquet of "dough-face," from John Randolph. Though he lost his office of member of Congress, he was made Chief Justice, and appears to have sustained the character of an honest man.

The Elder Durfee, was a man very strong, intellectually, but not a man of great learning in his profession.

Chief Justice Greene was an able lawyer.

The characteristics of Chief Justice Ames, are set forth in a note at the end of Volume VIII., of Rhode Island Reports, as my views of him are there set forth. I will not repeat them here.

Judge Staples was a man of great practical sense, and Judge Brayton was an excellent common lawyer. His mind moved slow, but strong.

Bradley was a man of learning, refined taste, and cultivated manners.

LIST OF CHIEF AND ASSOCIATE JUDGES OF RHODE ISLAND.

FROM MAY 1847 TO DATE.

GIDEON CORNELL.	Stephen Hopkins. Joshua Babcock. Josiah Arnold. John Howland.	May, 1747, to May, 1749.
JOSHUA BABCOCK.	Jonathan Randall. William Hopkins. William Hall. John Walton.	May, 1749, to May, 1750.
JOSHUA BABCOCK.	Jonathan Randall. William Richmond. John Walton. Benjamin Hazard.	May, 1750, to May, 1751.
STEPHEN HOPKINS.	Jonathan Randall. William Richmond. Joseph Russell. Joseph Clarke.	May, 1751, to May, 1755.
FRANCIS WILLETT.	Jonathan Randall.	May, 1755, to May, 1756.
[1]STEPHEN HOPKINS.	William Richmond. Joseph Russell. Joseph Clarke.	
JOHN GARDNER.	Jonathan Randall. William Richmond. Joseph Russell. Joseph Clarke.	May, 1756, to May, 1759.
JOHN GARDNER.	Jonathan Randall. William Richmond. Joseph Lippitt. Joseph Clarke.	May, 1759, to May, 1761.
SAMUEL WARD.	Joseph Russell. William Hall. Thomas Wickham. John Burton.	May, 1761, to May, 1762.
JEREMIAH NILES.	Joseph Russell. William Hall. Nicholas Easton. Samuel Nightingale.	May, 1762, to May, 1763.
JOSHUA BABCOCK.	Thomas Cranston. John Cole. Thomas Greene. Silas Niles.	Aug., 1763, to May, 1764.
JOHN COLE.	Thomas Greene. Silas Niles. Job Bennett, Jr. Stephen Porter.	May, 1764, to May, 1765.
JOSEPH RUSSELL.	William Hall. Job Bennett, Jr. Benoni Hall. Henry Harris.	May, 1765, to May, 1766.
JOSEPH RUSSELL.	William Hall. Job Bennett. Benoni Hall. Gideon Comstock.	May, 1766, to June, 1767.

1 At the August Session, 1755, Stephen Hopkins who was at the same time Governor of the colony, was elected Chief Justice of the Superior Court. (See Schedule, August, 1755, pp. 36 and 44.

JAMES HELME.	Job Bennet.	June, 1767, to May, 1768.
	Benoni Hall.	
	Stephen Potter.	
	Samuel Nightingale.	
JOSEPH RUSSELL.	Metcalf Bowler.	May, 1768, to June, 1769.
	Nathaniel Searle.	
	Philip Greene.	
	Samuel Nightingale.	
JAMES HELME.	Benoni Hall.	June, 1769, to June, 1770.
	Nathaniel Searle.	
	Thomas Greene.	
	Gideon Comstock.	
STEPHEN HOPKINS.	James Helme.	June, 1770, to May, 1773.
	Benoni Hall.	
	Metcalf Bowler.	
	Stephen Potter.	
STEPHEN HOPKINS.	James Helme.	May, 1773, to May, 1774.
	Metcalf Bowler.	
	Stephen Potter.	
	Job Bennet.	
STEPHEN HOPKINS.	Metcalf Bowler.	May, 1774, to Aug. 1776.
	William Greene.	
	Joseph Russell.	
	Job Bennet	
METCALF BOWLER.	William Greene.	Aug., 1776, to Feb., 1777.
	Shearjashub Bourn.	
	Jabez Bowen.	
	Thomas Wells.	
WILLIAM GREENE.	Shearjashub Bourn.	Feb., 1777, to May, 1778.
	Jabez Bowen.	
	Thomas Wells.	
	Perez Richmond.	
SHEARJASHUB BOURN.	Thomas Wells.	May, 1778, to May, 1779.
	Paul Mumford.	
	Stephen Potter.	
	Christopher Lippitt.	
SHEARJASHUB BOURN.	Thomas Wells.	May, 1779, to May, 1780.
	Paul Mumford.	
	Stephen Potter.	
	Gideon Comstock.	
SHEARJASHUB BOURN.	[2]William Ellery.	May, 1780, to May, 1781.
[1]JABEZ BOWEN.	Paul Mumford.	
	Peter Phillips.	
	Rufus Hopkins.	Elected in Sept., 1780.
	Gideon Comstock.	
PAUL MUMFORD.	Peter Phillips.	May, 1781, to May, 1782.
	Thomas Tillinghast.	
	[3]Ambrose Page.	
	Pardon Gray.	
	David Howell.	
PAUL MUMFORD.	Peter Phillips.	May, 1782, to June, 1785.
	Thomas Tillinghast.	
	Pardon Gray.	
	Jonathan Jenckes.	
WILLIAM ELLERY.	Peter Phillips.	June, 1785, to May, 1786.
	Thomas Tillinghast.	
	Pardon Gray.	
	Thomas Arnold.	
PAUL MUMFORD.	Joseph Haxard.	May, 1786, to May, 1787.
	Thomas Tillinghast.	
	Gilbert Devol.	
	David Howell.	

1 Elected in February, 1781, in place of Shearjashub Bourn, deceased.
2 Declined.
3 Declined, and David Howell elected.

PAUL MUMFORD.	William West. Stephen Potter. Walter Cooke. [1]John Waite.	May, 1787, to June, 1788.
OTHNIEL GORTON.	William West. Stephen Potter. Walter Cooke. Simeon Clarke, Jr.	June, 1788, to May, 1790.
OTHNIEL GORTON.	Daniel Owen. Sylvester Robinson. Walter Cooke. Ezekiel Gardner, Jr.	May, 1790, to May, 1791.
DANIEL OWEN.	Sylvester Robinson. Walter Cooke. Ezekiel Gardner, Jr. Thomas Tillinghast	May, 1791, to May, 1792.
DANIEL OWEN.	Carter Hazard. Walter Cooke. Ezekiel Gardner, Jr, Thomas Tillinghast.	May, 1792, to May, 1793.
DANIEL OWEN.	William Taggart. Walter Cooke. Ezekiel Gardner, Jr. Thomas Tillinghast.	May, 1793, to May, 1794.
DANIEL OWEN.	William Taggart. Walter Cooke. Joshua Bicknall. Thomas Tillinghast.	May, 1794, to June, 1795.
PELEG ARNOLD.	Joseph Hoxsie. Walter Cooke. Joshua Bicknall. Thomas Tillinghast.	June, 1795, to May, 1796.
PELEG ARNOLD.	George Brown. Walter Cooke. Joshua Bicknall. [2]Thomas Tillinghast.	May, 1796, to May, 1798.
PELEG ARNOLD.	George Brown. Walter Cooke. Joshua Bicknall. Thomas Holden.	May, 1798, to May, 1799.
PELEG ARNOLD.	Ezekiel Gardner. Walter Cooke. Joshua Bicknall. Thomas Holden.	June, 1799, to June, 1801.
PELEG ARNOLD.	John Allen. Walter Cooke. Joseph Reynolds. Henry Remington.	June, 1801, to May, 1808.
PELEG ARNOLD.	William Marchant. Walter Cooke. Joseph Reynolds. Benjamin Johnson.	May, 1808, to June, 1809.
THOMAS ARNOLD.	William Marchant. William Anthony. Joseph Reynolds. Benjamin Johnson.	June, 1809, to May, 1810.
PELEG ARNOLD.	Jeffrey Hazard. Joseph Cundall. Joseph Reynolds. Thomas Westcott.	May, 1810, to May, 1811.

1 Declined, and in September, Simeon Clarke, Jr., appointed.
2 Resigned in December, 1707, and Thomas Holden elected in his place.

PELEG ARNOLD.	Jeffrey Hazard. William Anthony. Joshua Bicknall. Benjamin Johnson.	May, 1811, to May, 1812.
DANIEL LYMAN.	Jeffrey Hazard. William Anthony. Joshua Bicknall. Benjamin Johnson.	May, 1812, to May, 1814.
DANIEL LYMAN.	Jeffrey Hazard. William Anthony. Joshua Bicknall. Charles Brayton.	May, 1814, to May, 1816.
JAMES BURRILL, JR.	Jeffrey Hazard. William Anthony. Joshua Bicknall. Charles Brayton.	May, 1816, to May, 1817.
[1]TRISTAM BURGESS.	Jeffrey Hazard. William Anthony. Joshua Bicknall. Charles Brayton.	May, 1817, to May, 1818.
[2]JAMES FENNER.	Isaac Wilbour. Henry Remington. Daniel Champlin. John D'Wolf.	May, 1818, to May, 1819.
ISAAC WILBOUR.	Thomas Buffum. [3]Dutee Arnold. Daniel Champlin. John De Wolf.	May, 1819, to June, 1822.
ISAAC WILBOUR.	Thomas Buffum. Henry Remington. Daniel Champlin. Luke Drury.	June, 1822, to May, 1823.
ISAAC WILBOUR.	Henry Remington. Daniel Champlin. Luke Drury. [4]Wheeler Martin.	May. 1823, to May, 1824.
ISAAC WILBOUR.	Henry Remington, Daniel Champlin. Samuel Randall. Isaac Fiske.	May, 1824, to June, 1825.
ISAAC WILBOUR.	Henry Remington. Daniel Champlin. Samuel Randall. Nathan Brown.	June, 1825, to May, 1826.
ISAAC WILBOUR.	Henry Remington. Daniel Champlin. Samuel Randall, [5]Samuel Eddy.	May, 1826, to May, 1827.
[6]SAMUEL EDDY.	Charles Brayton. Samuel Randall.	May, 1827, to May, 1833.
SAMUEL EDDY.	Charles Brayton. Job Durfee.	May, 1833, to June, 1835.
JOB DURFEE.	Levi Haile. William R. Staples.	June, 1835, to June, 1843.
[7]JOB EDDY.	Levi Haile. William R. Staples. George A. Brayton.	June, 1843, to May, 1848.

1 Elected in June, 1817.
2 Declined and Asa Messer elected June, 1818.
3 Elected in June, 1819.
4 Elected in June, 1823.
5 Stephen Branch elected in place of Samuel Eddy, in June, 1826.
6 In January, 1827, a law was passed providing for the election of these Judges, one Chief and two Associates.
7 In June, 1843, a law was passed providing that the Supreme Court should consist of one Chief and three Associate Justices.

[1]RICHARD W. GREENE	Levi Hale.	May, 1848, to Nov. 1854.
	William R. Staples	
	George A. Brayton.	
[2]WILLIAM R. STAPLES.	George A. Brayton.	Nov. 1854, to Mar. 7, 1856
	Alfred Bosworth.	
	Sylvester G. Shearman.	
[3]SAMUEL AMES.	George A. Brayton.	1856 to 1862.
	[4]Alfred Bosworth.	
	Sylvester G. Shearman.	
SAMUEL AMES.	George A. Brayton.	1862 to 1865.
	[5]J. Russell Bullock.	
	Sylvester G. Shearman.	
[6]SAMUEL AMES.	George A. Brayton.	May, 1865, to May, 1866.
	Thomas Durfee.	(Elected, June 15, 1865.)
	Sylvester G. Shearman.	
[7]CHARLES S. BRADLEY	George A. Brayton.	1866, to March, 1868.
	Thomas Durfee.	
	[8]Sylvester G. Shearman.	
[9]GEORGE A BRAYTON	Thomas Durfee.	March 13, 1868, to 1875.
	Walter S. Burgess.	(Elected, Jan. 24, 1868.)
	Elisha R. Potter.	(Elected, Mar. 16, 1868.)
THOMAS DURFEE.	[10]Walter S. Burgess.	(Elected, Jan. 1875. to June, 1881.)
	Elisha R. Potter.	
	Charles Matteson.	(Elected Feb. 11, 1875.)
	John H. Stiness.	(Elected, April 13. 1875.)
THOMAS DURFEE.	[11]Elisha R. Potter.	June, 1881, to 1882.
	Charles Matteson.	
	John H. Stiness.	
	Pardon E Tillinghast.	(Elected June 2, 1881.)
THOMAS DURFEE.	Charles Matteson.	Apr., 1882, to Jan. 1, 1885.
	John H. Stiness.	
	Pardon E. Tillinghast.	
	[12]George M. Carpenter.	(El , Apr. 20, 1882.)
THOMAS DURFEE.	Charles Matteson.	Jan. 1885, to March, 1891.
	John H. Stiness.	
	Pardon E. Tillinghast.	
	George A. Wilbur.	(Elected, Jan., 1885.)
CHARLES MATTESON.	John H. Stiness.	April, 1891, to
	Pardon E. Tillinghast.	
	George A. Wilbur.	
	Horatio Rogers.	(Eected, May 27, 1891.)
	William W. Douglass.	(Elected, May 27, 1891.)
	[13]Benj. M. Bosworth.	(El., May 26, 1891.)
	Edward C. Dubois.	(Elected March, 1899.)

1 Resigned, June 14, 1854.
2 Resigned, March 7, 1856.
3 Sworn in, August 11, 1856.
4 Died, June 10, 1862.
5 Sworn in, September 7, 1862; resigned, March 1, 1868. George A. Brayton elected Chief Justice, March 13, 1868.
6 Died, January 3, 1868.
7 Resigned, May 28, 1874. George H. Brown, elected Chief Justice, January 23, 1874, but declined to accept. Thomas Durfee, elected Chief Justice. January 28, 1875. April 9, an Act was passed, providing for four Associate Justices.
8 Resigned, June 1, 1881.
9 Died April 10, 1882.
10 Resigned, January 1, 1885.
11 Resigned, March 14, 1891. Charles Matteson elected Chief Justice. April 17, 1891. May 27, an Act was passed providing for five Associate Justices.
12 May 13, 1897, an Act was passed providing for six Associate Justices.
13 Judge Bosworth died February, 1899.

THE PRESENT BENCH.

HON. CHARLES MATTESON, A. M.

CHIEF JUSTICE SUPREME COURT OF RHODE ISLAND.

Charles Matteson, son of Asahel and Julia M. [Johnson] Matteson, was born in Coventry, R. I., March 21, 1840. His early education received in public schools in Warwick and Coventry, R. I.; prepared for college in part at Providence Conference Seminary, now Greenwich Academy, in East Greenwich, R. I., and in part at University Grammar School in Providence, R. I.; entered Brown University in September, 1856, and graduated in September, 1861; receiving, on graduation, the degree of Master of Arts, at that time conferred by the University on graduates taking the full four years course; entered the office of Hon. Wingate Hayes, U. S. District Attorney for the District of R. I., and began the study of law October 15, 1861; remained as student in that office until September, 1862, then entered Harvard Law School in Cambridge, Mrss., and remained one year; in September, 1863, resumed the study of law in the office of Mr. Hayes, and was admitted to the bar of Rhode Island January 9, 1864; Began practice of the law on his own account and continued so to practice until April 1, 1865; Then formed a partnership with Wingate Hayes under the name and style of Hayes & Matteson, to continue three years. This partnership continued, however, until July 1, 1871; Then resumed practice on his own account and continued in practice until March 1, 1875. Though engaged in general practice, he gave attention specially to the law of real estate and corporations. He

was elected by the General Assembly of the State of Rhode Island, in grand committee, an Associate Justice of the Supreme Court of the State February 11, 1875; took the oath of office February 27, 1875, and entered upon the discharge of his duties as Associate Justice March 1, 1875, and continued in said office until April 17th, 1891, when he was elected Chief Justice on the retirement of Chief Justice Thomas Durfee, position which he still holds. He served in the General Assembly of Rhode Island as Senator from the Town of Coventry for the years 1871–73; Then removed from Coventry to Providence, where he has since resided. Married August 22, 1862, Belle Himes of Warwick, R. I. There are three sons of the marriage.

JOHN H. STINESS LL. D.

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

John H. Stiness, son of Philip B. and Mary Stiness, was born in Providence, R. I., August 9, 1840. He was educated in the public school and University Grammar School, entering Brown University in 1857. Near the close of the Sophomore year, in 1859, he accepted the position of Principal of the Hopkin's School in North Providence temporarily, intending to return to college in the fall, but remained with the school until the summer of 1861. He then joined the 2d Reg't N. Y. Artillery as a lieutenant, resigning and returning home on account of sickness, in Nov., 1862. In 1863, he commenced the study of law and was admitted to the bar in 1865. In 1874, he was elected to the General Assembly of R. I., as a representative from the City of Providence, and in April, 1875, he was elected Associate Justice of the Supreme Court. He was assigned to hold the Court

of Common Pleas until 1885, since which time he has sat regularly with the Supreme Court, and he now sits in the Appellate Division of the Supreme Court, being the senior Assaciate Justice. In 1876, he was appointed by the Governor one of the commissioners to build the Providence County Court House; and on March 6th, 1897, he was appointed by the Governor, a member of the commission to revise the constitution of the State, under the resolution passed January 27, 1897. He is President of the Rhode Island Historical Society; Fellow of Brown University, who conferred the degree of LL. D., upon him, and he is a member, from Rhode Island, of the Commission on uniform State Laws.

PARDON E. TILLINGHAST, A. M.

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

The son of Rev. John Tillinghast, Baptist clergyman, was born Dec. 10, 1836, at West Greenwich, R. I. Obtained a common school, academic and normal school education—fitted for a teacher—taught grammar schools in Providence and vicinity for seven years with very good success, enlisted in the Union army in 1862, in 12th R. I. Vols., (Col. Browne,) serving during its term of service as Quartermaster's Sergeant; studied law with Hon. Thos. K. King for three years, admitted to the bar in April, 1867, readily obtained a good clientage, was considered a most successful practitioner—business steadily grew—was corporation counsel (town solicitor) of Pawtucket from 1874 to 1881, made a specialty of municipal law, took a deep interest in military affairs, held official positions from Lieutenant to Brigadier-General, inclusive; was Judge Advocate General of State for six years,

took an active interest in politics (republican in politics), represented Pawtucket in the General Assembly (House and Senate) for seven years—Chairman of Judicial Committee of Senate for three years, Chairman of Joint Select Committee of General Assembly on Revision of Statutes in 1880–1, Chairman Committee to welcome and entertain President Hays as a guest of the State; took an active interest in public education, served in school committee for a number of years, has been member of Baptist Church since the age of sixteen; Superintendent of Sunday-school several years; elected Judge in June, 1881, to succeed Hon. Walter S. Burges, resigned; assigned to hold Court of Common Pleas, had charge of criminal side of the court for four years, then transferred to civil side, (*nisi prius*), where he sat until the retirement of Chief Justice Durfee and the reorganization of the court in 1893, when he was assigned to the Supreme Court proper, and after the passage of the Judiciary Act, he was assigned to the Appellate Division where he now sits. Married in 1867, wife and four children.

He was ever a diligent student, a close observer and a hard working man.

HON. GEORGE A. WILBUR,

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

Judge Wilbur was born in 1832, and was admitted to the bar in 1862. Though coming to the bar late, he did not permit his desire to begin his professional career to gain the mastery over his patriotism. He enlisted in 1862, was promoted to the rank of captain, and after having seen much hard service in the field, was mustered out at the end of the war. From 1865 till 1872 he was presiding justice of the Woonsocket court of magistrates.

From 1872 till 1885 he was Trial Justice of the Justice Court of Woonsocket. He was for five years State Senator, and during a portion of that time chairman of the Judiciary Committee. Upon the resignation of Judge Carpenter, in 1885, Judge Wilbur was elected an Associate Justice. By assignment of the court he holds the Court of Common Pleas, his time being largely taken in the trial of the criminal docket. Judge Wilbur sits on the criminal side of this Court and has done so since his election.

HON. HORATIO ROGERS, LL. D.

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

Horatio Rogers, son of Horatio and Susan [Curtis] Rogers, was born in Providence, R. I., May 18, 1836. He was educated in the public schools of his native city and at Brown University, from which latter institution be graduated in 1855. His law education was acquired in the office of the late Hon. Thomas A. Jenckes, and at the Harvard Law School, and he was admitted to the bar in January, 1858. He was elected a justice of the Police Court of the city of Providence in June, 1861, which position he resigned in August following to enter the United States Military service, becoming successively 1st lieutenant, captain and major in the 3d R. I. H. Art., colonel of the 11th R. I. Vols., and colonel of the 2d R. I. Vols., the first and last being 3 years organizations, and the 11th a nine months regiment, and being brevetted to brigadier general U. S. Vols. He resumed legal practice in 1864, served as Attorney General of Rhode Island from 1864 to 1867, and again in 1888–9; as member of the Common Council of Providence for several terms, a part of the time as pres-

ident; a member of the General Assembly of Rhode Island several years, and was elected an Associate Justice of the Supreme Court of that State in May, 1891, in the Appellate Division of which he is now serving. He has held many public and private positions, is a member of the Rhode Island Society of the Cincinnati, is the oldest living Post Department Commander of Rhode Island Grand Army of the Republic, Ex-President Rhode Island Historical Society, member of the American Antiquarian Society of Worcester, Chairman of the Record Commissioners of Providence, R. I., and is a member of numerous literary societies. He has written much for newspapers, delivered many addresses and orations, a number of which have been printed, and is the author of "Private Libraries of Providence," and "Mary Dyer of Rhode Island, the Quaker Martyr," and edited "Hadden's Journal and Orderly Books" so voluminously as to be tantamount to writing a volume on Burgoyne's Campaign. In 1896 Trinity College (Hartford) conferred the honorary degree of LL. D. upon Judge Rogers. Since his admission to the bar, in 1858, he has devoted his whole time to his profession, except a dozen years, from 1873 to 1885, when he was more or less engaged in cotton manufacturing, the indulgence of his literary tastes occupying his hours of recreation. He has been twice married, and has three children, both of his sons being Episcopal clergymen.

HON. WM. W. DOUGLAS, A. M., LL. B.

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

William W. Douglas, eldest son of Rev. William and Sarah (Sawyer) Douglas, was born in Providence, R. I., Nov. 26, 1841. Educated in the public schools and graduated from Brown University, Sept. 1861. From Oct.

1861, to Dec. 1864, he served as Second Lieutenant, First Lieutenant, and Captain, in Fifth Regiment, Rhode Island Volunteers. Studied law in Providence and at Albany Law School, N. Y. Practiced law in Providence from Jan. 1st, 1867, until elected Associate Justice of the Supreme Court of Rhode Island, May 27, 1891. Held office of Division Judge Advocate Rhode Island Militia, for several years, and later was Assistant Adjutant General a short time. Was Judge Advocate General of the Grand Army of the Republic from 1871 to 1877. Was Senior Vice Commander of the Massachusetts Commandery of the Loyal Legion, 1889–1890. Was Commissioner Adjutant General, State of Rhode Island, of the United States Circuit Court, for the Rhode Island District, from 1874 to 1890. Was Representative of the City of Providence, in the General Assembly, 1871, 1872, and Senator in 1890. Was member of the City Council of Providence, June, 1873, to January, 1876. Married, June 30, 1884, to Anna Jean Bennett, of Newton, Mass. Is a member of the First Baptist Church, of Providence. Has been director and counsel for several commercial and literary corporations. Is a member of Hope Club, Squantum Association; Athletic Association; Art club, etc.

EDWARD CHURCH DUBOIS.

ASSOCIATE JUSTICE SUPREME COURT OF RHODE ISLAND.

Judge Dubois, who was born in London, England, of American Revolutionary stock, is the son of Edward Church, who was temporarily residing in London at the time of his birth. His father assumed the name of Edward Church Dubois, which the Judge retains. He was educated at Russell's Academy, New Haven, Conn.; the High School,

at Pawtucket, R. I., and at the Friends' Academy, New Bedford.

He studied law with John E. Risley, at Boston, Mass., and later with Mr. Risley and Charles J. Noyes, of Haverhill.

He was admitted to the bar March 19th, 1870, and shortly after, on the retirement of Mr. Risley from Rhode Island practice, entered the law firm of Noyes & Dubois, January 1, 1872, and Mr. Noyes removing shortly to Boston, Judge Dubois continued his law practice in Haverhill.

He was appointed clerk of the police court at Haverhill, which position he held till November, 1877, when he resigned, and removed to Providence, R. I. In May, 1878, he removed to East Providence, where he has since resided. He served as town solicitor of East Providence for several years; served as senator from that town May, 1883, to May, 1885; was Attorney General of the State from May, 1894, to May, 1897, and was elected to the Assembly, May, 1898.

He was elected Associate Justice of the Supreme Court February 28, 1899, to fill the vacancy caused by the sudden death of Judge Bosworth.

He married Miss Jennie Roberts February 24, 1872.

THE NEW SUPREME COURT OF SANTIAGO DE CUBA.

ALFREDO BETANCOURT, Attorney General.
LOUIS GASTON, Associate Justice.
URBANO SANCHES HECHAVARRIA, Chief Justice.
M. J. MANDULEY, Associate Justice.
JOSE FIGUEREDO, Secretary.
EUDALDO TAMAYO, Associate Justice.
JOSE VARELA, Associate Justice.
ANGEL MESTRE, Assistant Secretary.

From advance sheets Supreme Court of the States and Territories of North America.

THE SUPREME COURT OF SANTIAGO DE CUBA.

BY CLARK BELL, ESQ., WITH THE COLLABORATION OF THE JUDGES OF THAT COURT.

Chief Justice.—Urbano, Sanchez, Hechavarria. *President de Sala.*—Eudaldo Tamayo. *Associate Justice.*—Luis Gaston. *Associate Jus-* Jose Varela. *Associate Justice.*—M. J. Manduley, and *the Attorney General of the Court.*—Alfredo Betancourt.

At the close of the late war between the United States of America and Spain, one of the first steps taken by the government of the United States, towards the preparation necessary to protect the people of the Island of Cuba in their rights, both civil and political, and to prevent disorder and give redress for public and private wrong, was to establish the Supreme Court of the Island at Santiago, which was the first great district of the Island that came under the protection of the American army, that had restored liberty to the Cuban people, for which so long and constant struggle had been made.

The American Government had taken possession of the island as the fruit of the war through the Military Governor, in command in that department and proceeded at once to the organization of the Supreme Court upon a basis, that would not only command the respect of all classes of the inhabitants in its composition, but insure to every citizen a full protection for all his rights, furnish him a tribunal, with full jurisdiction for the redress of all wrongs and injuries; ensure tranquility and punish criminals, and all who should violate the laws, which court

Read before the Medico-Legal Society, February Meeting, 1899.

would be protected and sustained in the discharge of its high trust and duty by the whole power of the American nation.

The gentlemen selected were all natives of Cuba, and the government of the United States, in their selection, took pains to select men, not only of high character and eminent judicial ability, but that the people of this district of Cuba, might feel that all shades of Cuban sentiment, and all interests and classes should be represented upon the bench of this court. Upon the announcement of the organization of this body, I addressed the Hon. Chief Justice of that bench, Judge Urbano Sanchez, Hechavarria, a letter from which the following extracts are made :

NEW YORK, Nov. 30, 1898.

Honored Sir :—The re-organization of the Supreme Court, at Santiago de Cuba, is a source of great interest to the Medico-Legal Society of the United States of America.

I mail you herewith a copy of the Medico-Legal Journal Nos. 1 and 2 of Vol. XVI., which will give you the basis of the work and mission of the Society and its officers. On the outside cover of the Journal is the announcement of a work in which I have engaged, entitled "The Supreme Court of the States and Provinces of North America."

Certainly Cuba is now within the field of this mission, and I desire to present in a group the present bench of the Supreme Court that has just been appointed at Santiago.

Be so kind as to send me by return of mail your photograph, with a brief sketch of your life and career. Also furnish me with a brief historical sketch of the Supreme Court of Cuba as it existed before our recent war and as it was organized, under Spanish rule, commencing with the first establishment of the Supreme Court of that Island.

Give me the jurisdiction of the Court and its autonomy. How it was constituted and by whom appointed? The term of the office of the Judges, their salaries. Had it both civil and criminal jurisdiction?

Was it appellate only? Did it sit only in review of the action of the courts of first instance? Or did the judges sit in trials singly and then in banc review the trials of the single judges as in England?

Did the Supreme Court in the past review on appeal the decision of one of its own judges, sitting alone and trying a case? Or was it appellate only?

Had it jurisdiction in equity or in chancery? Did it have jurisdiction of divorce, of high crimes, was there any equity or chancery jurisdiction?

What was the salary of the judges in the past?

The statement made here is that present salaries will be $3,600 to the President and $3,000 to Associate Judges.

Is the Court now created for the whole island, or only for the District of Santiago?

What will be its relations to Havana and other portions of Cuba?

Will the island be divided into districts and a similar court established at Havana? If so will there be a tribunal higher than this court to which an appeal will lie? or will you be the Supreme Court of last resort?

Do you understand that an appeal will lie from your action to the Supreme Court of the United States in any case and in what cases?

Under the Spanish rule did an appeal lie from the final decision of the Supreme Court of Cuba to any Tribunal in Spain? If so, to what tribunal and in what cases?

Please send the portraits first and the answer to these inquires later, but as early as possible. We shall, I assure you, take the liveliest interest in your work and shall be glad to enroll you as members of the Medico-Legal Society on whose roll are now a large number of Judges of the Supreme Court of the several States of the American Union. The initiation fee is $5.00, and the annual dues $2.00, and the Journal goes free to active members.

Please receive, honored sir, the assurance of my high consideration.

Very Faithfully Yours,

CLARK BELL.

To the Honorable Urbano Sanchez Hechavarria,
Chief Justice of the Supreme Court at Santiago
de Cuba, and his associates composing
, that body.

To this communication the following reply was made by the Supreme Court so organized at Santiago de Cuba, for that portion of the Island of Cuba within its jurisdiction, and at the same time giving a succinct and careful reply to the several questions proposed, which related as well to the administration of justice in the whole island, as to the district or part of the Island of Cuba, over which the jurisdiction of this tribunal extends and embraces :

HISTORY OF THE ADMINISTRATION OF JUSTICE IN THE ISLAND OF CUBA UNDER THE SPANISH REGIME.*

1st. A brief history of the administration of justice in this island during the Spanish rule:

Formerly there existed by the name of "Alcaldias Mayores" (High Mayors,) in different parts of the island, judges, who sat in civil and criminal cases, said judges having also the powers of a governor, and from whose decisions appeals were made to the Supreme Court of Santo Domingo, established under the name of "Audencia" (Supreme Court) in the city and Island of the same name.

* Translated from the Spanish by Ida Trafford Bell. Replies to questions asked by Clark Bell, Esq., Chairman and Secretary of the Medico-Legal Society of New York.

In 1801, by virtue of the Spanish having lost their power in Santo Domingo, the said "Audencia" was removed to Puerto Principe, in the Island of Cuba, and began the exercise of its functions in the following year. There was a President, native of the same, and the Captain General, who resided in Havana.

The said "Audencia," besides having jurisdiction in civil and criminal cases on appeal from the "Alcaldias Mayores," gave decisions of a legislative nature, which when approved by the Captain General, were enforced as laws in all parts of the country, and were called "Votos Consultivos," (Advisatory Opinions.) The meeting of all the members of the "Audencia" for the purpose of framing laws, was called the "Real Acuerdo," or Royal Accord.

In 1838 there was created another Supreme Court in Havana, under the name of "Audencia Pretorial," (from the antique Roman—A city magistrate annually elected, who, from 366 B. C., watched over the administration of justice, and was distinguished by the "toga prætexta," the "sella curulis" and the presence of lictors) and having equal powers with that of Puerto Principe, which was the Eastern territory of the island, while that of Havana was the Western. But, in 1853 the court of Puerto Principe was done away with, leaving that of Havana the only court of this standing in the island.

Later on there was created another "Audencia" in Santiago de Cuba, which was removed to Puerto Principe, in 1878; but neither this nor that of Havana had the power in "Real Acuerdo." Their mission being the disposing of cases on appeal from the decisions of the "Alcaldias Mayores," which were called courts of First Instance, and which had also been deprived of governmental powers.

In 1889 the "Audencias" were divided into "Territoriales" and "Criminales." The "Territoriales" being under the jurisdiction of Havanna and Puerto Principe, and the "Criminales" under that of Pinal del Rio, Mantanzas, Santa Clara and Santiago de Cuba.

The "Territorial Audencia" of Havana exercised jurisdiction in criminal matters, only in the province of Havana, and in civil matters, in said province and in those of Pinar del Rio, Mantanzas, and Santa Clara; in which three provinces the respective "Audencias" of the name, had jurisdiction in criminal cases.

The "Audencia Territorial" of Puerto Principe exercised jurisdiction in criminal cases only in that province. It had, outside of its own territory, jurisdiction in civil cases in Santiago de Cuba; criminal jurisdiction being exercised by the "Audiencia" of Santiago de Cuba in its own territory.

At last the "Audencia Criminal" of Matanzas was elevated to the grade of territorial, with jurisdiction in civil cases in Matanzas and Santa Clara, leaving the court of Havana with jurisdiction in civil cases in its own and the province of Pinar del Rio; the "Audencia Territorial" of Puerto Principe was removed to Santiago de Cuba with civil jurisdiction in both provinces, the criminal court of Santiago de Cuba being transferred to Puerto Principe.

The courts of First Instance were so-called on account of their jurisdiction in civil cases, but with the name of courts of Instruction, on account of their criminal jurisdiction.

The same judges sat in both courts, because, although in Havana, they divided the functions, they were in effect without division.

In criminal cases, the "Audencia" heard cases orally and publicly, but without jury, and from its decisions appeal could be made to the Supreme Court of Madrid on application of the question of the Penal Code or the rules of legal procedure; not upon the facts. In civil cases appeal could be made to the courts of Havana, Matanzas and Puerto Principe from the decisions of the courts of First Instance; there being also the right of appeal to the Supreme Court. (Audencia,) as we have said, these courts did not have power in criminal cases, but were subject to the higher. They had also Municipal Courts, which, in verbal hearings decided civil cases of less than $200, and sat in judgment upon "faltas" (petty crimes.)

From the decision of a Judge of First Instance and Instruction, in civil cases of dispossess and in petty criminal cases, appeals could be taken in some instances, directly to the Supreme Court of Madrid, without the formality of appeal to the intermediate courts.

2nd. "How was the "Audencia" of Santiago constructed, and by whom named?"

It was composed of a President, President of the Department of Justice, four Magistrates, an Attorney General, Deputy Attorney General, Counsellor to the Attorney General, Secretary of the Court of Justice, and a Secretary of the Government, or rather of the President—with such other subordinates as necessary.

The appointments were made up to the present year by the King of Spain, and the present year by the Governor General of the island.

The judicial and fiscal offices were graded according to a fixed scale, by which promotion was made according to length of service, personal merit, or, by appointment by the Spanish government; said promotion always being made from an inferior to the next higher grade, no grade ever being passed by.

The graded scale was as follows:—Judges of Entrance, of Ascension, of Termino, (special,) of Havana. (These last had the special rank of Magistrates of the "Audencia Territorial") Magistrates of "Audencia Criminal," of "Territorial" and of Havana.

Ths President, the Attorney General and the President of the Department of Justice of the "Audencia Territorial" of Santiago de Cuba, had the rank of Magistrates of Havana, and a salary of $5,000 per year, each; the judges with the rank of magistrates of the "Audencia Territorial," had salaries of $4,250 each; the Deputy Attorney General with the rank of Magistrate of the Criminal, had a salary of $3,500; Counsellor to the Attorney General, with the rank of Judge of Termino, had a salary of $2,750 a year. The secretaries of the government and of the Courts of Justice, with the rank of judges of First Instance and Ascension, had salaries of $2,500 each, and the two judges of First Instance, of Santiago de Cuba, were of the rank of Termino, and had salaries corresponding to their rank.

3rd. "How long were the terms of the judges and what salaries did they receive?"

The careers of Functionaries, Judicial and Fiscal, constituted a career of State, ascent in which was, as upon a ladder. No one could be re-

moved without just cause, and by trial before a jury of his peers; the first step in this ladder was naturally, the inferior grade, or that of Judge of the Court of Entrance, the selections being made either by election or by appointment by the government; usually from the ranks of lawyers who had practiced four years, and paying the highest tax-fees.

As far as salaries, that question has already been sufficiently answered, it being necessary only to add that—the President, Attorney General, President of the Department of Justice of Havana, had salaries of $5,750 each, yearly; that of the Judges of Entrance being $1,875 each, while the Municipal Judges did not receive salaries, but fees; these judges did not form a part of the judicial term, but were appointed by the presidents of the "Audencias Territoriales," and for the term only of two years.

4th. "Had the court civil or criminal jurisdiction, or both?"

We have already explained that the "Audencia Territorial" of Santiago de Cuba had civil jurisdiction within its own province and that of Puerto Principe, and only criminal in that of Santiago de Cuba.

5th. "Was its object to hear cases of appeal only?"

In civil cases, yes; but in criminal cases it sat in judgment only to hear these cases orally and publicly, and from its decisions in both instances, as we have already stated, appeal could be made to the Supreme Court of Madrid.

6th. "Whether or not it sat only to review cases on appeal from the courts of First Instance?"

This question has already been sufficiently answered.

7th. "Whether or not each case was decided by a single judge, sitting alone, and thereafter reviewed by all the judges together, as in England?"

No; the decisions were made by the Department of Justice, or by the President of the Department of Justice in conjunction with the four magistrates, and by a majority of votes.

While the functions of the president of the "Audencia" were of a purely gubernatorial nature in the administration of justice, he could at will preside with vote in the Department of Justice.

8th. "Could the Supreme Court reverse in cases of appeal the decisions of one of its judges presiding alone?"

We have already said that no one member of the "Audencia" had power to pass sentence in either civil or criminal cases.

9th. "Was the object of the Court to hear appeal only?"

The Court of Justice (or Department of Justice) heard appeals in the civil, and orally in the criminal. The President of the "Audencia," the Attorney General and the President of the Department of Justice, together formed the "Sala de Gobierno," (or court of government) and had charge of all matters relating to notaries, secretaries of the judges of First Instance, correction of officials, appointment of special judges among the judges of First Instance; jurisdiction in high crimes and simlar cases. When the President, the President of the Department of Justice, Attorney General and the four Magistrates met, they formed what was called "Tribunal Pleno," (Full Tribune, equivalent to the English Court in Banc) which had power to consent or to withhold in important

cases, the appointment of the judicial and fiscal officers in its territory; to inform the government as to legislative reforms affecting the judicial power, to deliberate upon some important cases, in accordance with the "Sala de Gobierno," and, in general, always when the president of the "Audencia" called them together in "Tribunal Pleno."

10th. "What was the jurisdiction of the Court?"

This question has already been fully answered.

11th, "Had it jurisdiction in cases of divorce, high crimes and cases of equity of all classes?"

In the Island of Cuba, civil marriage was legal under the Civil Code of the Spanish nation, as well as the Canonical Marriage established by the Roman Catholic Church, in accordance with the "Council of Trenton," declared the law of the Kingdom. Jurisdiction in cases of the divorce of persons married under the Canonical laws, belonged to the Arch-Bishop of Santiago de Cuba, while cases of Civil Marriage belonged to judges of First Instance, with right of appeal to the "Audencia Territorial" of said city of Santiago de Cuba.

Jurisdiction in cases of crimes committed by the Governor General, the Arch-Bishop and the Bishops, belonged to the Supreme Court of Madrid, and those committed by Counsellors of Administration, and Representatives of the House of the Colonial Autonomist government in the Island, belonged to the "Audencia" of Havana. Of crimes committee by other persons in the province of Santiago de Cuba, jurisdiction was held by the "Audencia" of that city, exception being made to such crimes as were covered by the Military and Marine Codes in this locality, as well as special laws formulated by the Captain General during the last war. The "Audencias" in Spanish territory, and the judges of First Instance, and municipal, as the case might be, could not sit in equity, except by written law or by decision of the Supreme Court of Madrid; and this only in civil cases.

12th. "What is the salary of a judge?"

They say that in the future the salary of the President will be $3,600, and $3,000 for the others. Of this the Judges of First Instance will receive $229.16 per month. In regard to the salaries of the Supreme Court, it is said that the above amounts are correct, but we have not enquired personally of the Governor of this province, because we understand that it is our patriotic duty to assist him in every way and in every thing without spending our time speculating as to what salaries we are to receive, but which, naturally, will be more than those of the judges of the First instance.

13th. "Is the court, which has just been appointed, only for the province of Santiago de Cuba, or for all the island?"

It is only for the province of Santiago de Cuba.

14th. "What will be the relation between this court and that of Havana?"

In our opinion no relation, whatever, as each court must act independently in its own province or territory, and for this reason, already, that of Santiago de Cuba no longer exercises jurisdiction in civil matters in the province of Puerto Priucipe, as there has now been established in that city a court with jurisdiction both in the civil and criminal.

15th. "Will the island be divided into districts and will there be established courts with powers equal to that of Havana?"

We cannot tell you whether the United States government will change the judicial system or leave it as it was under the Spanish regime, or continue to create supreme courts with both civil and criminal jurisdiction in each province. This latter would best satisfy the interests of justice in this country.

16th. "In this case, will there be some higher tribunal to which appeal can be made?"

At present the decisions of the Supreme Court and the Court of Puerto Principe are final, and against which there is no appeal. We are not informed as to whether there will be established a court of "Casation" to take the place of the Supreme Court of Madrid, or one of appeal in the capitol of the island.

17th. "Will the Court of Santiago de Cuba have power to appeal to some court in the United States, and in what cases?"

We cannot say. It is not possible to name a "priori" with the difference between the courts of the United States and those of this island, to which it will be possible to appeal. This is a matter for the United States Congress to decide.

18th. "Under the Spanish regime could an appeal be made to some tribunal in Spain?"

We have already answered this question.

[Signed] URBANO SANCHEZ HECHAVARRIA,
President of the Supreme Court.
EUDALDO TAMAYO,
President de Sala.
JOSE VARELA,
Magistrado.
ALFREDO BETANCOURT,
Attorney General.
LUIS GASTON,
Magistrado.
M. J. MANDULEY,
Magistrado.

SANTIAGO DE CUBA, Dec. 14th, 1898.

INSTANT DEATH BY DECAPITATION AN IMPOSSIBILITY ACCORDING TO BIOLOGICAL ANALYSIS.

BY J. MOUNT BLEYER, M. D., F. R. A. M. S., LL. D., OF NEW YORK CITY.

As the father of electrocution in this country, naturally the problem of Dr. Cinel, of Paris, "Does the stroke of the guillotine cause instant death?" has had more than a passing interest. This revelation caused me to carry out a few experiments, from which I formulated a most plausible theory. In my opinion from all the facts gathered, I concluded that what is to follow in this paper, will be received as a most rational explanation to the thinker, that such an instantaneous death, is an impossibility. The biologist, psychologist and physiologist cannot throw aside such a theory as I propose to bring before you without weighing many facts that are therein presented,—otherwise much of our ground work in these scientific studies must crumble, as the very principles involved therein, are founded upon them.

Dr. Cinel, who evidently must be a keen observer to have brought to our notice, that absolute death does not follow guillotining for several hours,—on account of the fact, that the brain finds nourishment for an hour after decapitation. Also during this time the head of the victim retains the sense of feeling, hearing, smell and sight. His reasoning being sound, thou from a crude physiological standpoint only, is nevertheless such that will bear me out in the course of my remarks, which are founded on

*Read before the Medico-Legal Society at the Annual Meeting, New York City, Dec. 21st, 1898.

both physiological and biological studies. Dr. Cinel lays much stress upon a point in connection with the blood supply to the brain, long after the head has fallen into the basket. This very, and one of the most important, facts in connection with his theory, led me to propound my own.

We all know the legend of the Sphinx, who, on the mountain path, stops the wanderer on his way, and proposes her riddle. And the riddle which she proposes to you and to me, and to all mortal things, is the same old world-problem: What is man? Whence does he come and whither does he go?

Consciousness is a most complex phenomena. The leading men of science have as yet failed to give us even a definite definition of it. Again, consciousness is a broad and sweeping term in applying it in general in this connection after decapitation.

There are many grades of consciousness which thus far are still impossible for us to unravel and detect, and therefore all depends what grade we can detect after death by the guillotine. It should be an understood fact that "Consciousness is a natural phenomenon; but we cannot discover and investigate it as we do phenomena of light and electricity."*

The term applied by Dr. Cinel refers no doubt to the simple forms only, and I must agree that his findings of those are entirely with my own.

Amongst those forms of consciousness, implying more than the simple sensations of the senses, or their complex forms, or the unnamed and generally unregarded sensation, I am of the belief that, under such conditions as in decapitation, very few conscious signs can be made appreciable by the outward only, with our crude methods for their detection. The detection of consciousness, for

*H. M. Stanley. Swan, Sonnenscheine & Co., MacMillan & Co., 1895.

any length of time after decapitation with its many varying complex phases moving onward, is hardly possible. So we must only theorize and build up ground work for a plausible theory, until we can find more positive proof that a certain phase of consciousness is totally extinct after decapitation. To which I mustanswer. That this can hardly be possible for many reasons.

Of all the sciences, psychology is perhaps the most imperfect. If a science is a body of knowledge obtained by special research and accepted by the general *cousensus* of specialists, then psychology is so defective as to scarcely merit the name of science. This want of cousensus is everywhere apparent, and must especially impress any one who compares the lack of harmony in manuals of psychology with the practical unanimity in manuals of botany, geology, physics, and other sciences. Even in the most fundamental points there is no agreement, as will be evident in a most summary statement.

It is now something more than a century since the general divisions of psychic phenomena into intellect, feeling and will, first came into repute; but still some psychologist of note, do not agree to this fundamental classification, but would unite feeling and will in a single order. As to the subdivisions of feeling and will, we are confessedly wholly at sea. In intellect, it is only on the lower side, sensation and perception, that anything of great scientific value has been accomplished; and even now it cannot be said, that the classes of sensation have been marked off with perfect certainty. In the higher range of intellect, psychology can do scarcely more than accept some ready-made divisions from common observation and logic. And if so, little has been settled in the comparatively, simple work of a descriptive classification of facts of mind, we may be assured that still less has been accomplished

toward a scientific *consensus* for the laws of mind. Weber's law alone seems to stand on any secure basis of experiment; but its range and meaning are still far from being determined. Even the laws of the association of ideas, are still the subjects of endless controversy. Also in method there is manifestly the greatest disagreement. The physiological and introspective schools each magnify their own methods, sometimes, so far as to discredit others.

Physiological method has won for itself a certain standing, indeed, but just what are its limitations is still far from being settled.

But the grievous lack of generally accepted results is most apparent in the domain of feeling. Even the fuller treatises on the subject of feeling, rarely reach beyond literary method and common observation, being for the most part a collection and arrangement of the results of common sense, excepting common definitions, terms and classifications. Now, science is always more than common sense and common sense perception; it is uncommon sense; it is an insight and a prolonged special investigation which penetrates beneath the surface of things and shows them in those inner and deeper relations which are entirely hid from special observation. Common views in psychology, are likely to be as untrustworthy as in physics or astronomy, or any other department. Science must, indeed, start with common sense, but it does not deserve the name of science till it gets beyond it.

Again, the subject of pleasure, pain, and emotion, is usually discussed with considerable ethical or philosophical bias. Still further, the physical side of emotion has been so emphasized by the physiological school as to distract attention from purely psychological investigation.

It is obvious, then, on the most cursory review, that very little has been accomplished in the pure psychology

of feeling. Here is a region almost unexplored, and which, by reason of the elusiveness and obscurity of the phenomena, has seemed to some quite unexplorable. Dr. Nahlowsky truly remarks, that feeling is a "strange" mysterious world, and the entrance to it as dark as to Hades of old." Is there any way out of this darkness and confusion? If the study of feeling is to become scientific, we must, I think, assume that all feeling is a biological function governed by the general laws of life and subject in origin and development to the law of struggle for existence. In biology we are not driven to understand life solely through analogy with our own life, but in psychology mind in general must be interpreted through the self-observation of the human mind.

In biology, we see without effort facts and forms of life most diverse from our own; the most strange and primitive type are as readily discernible as the most complex. We study a fish just as readily as a human body; but the fish's mind,—if it has any—seems beyond our ken, at least is not susceptible of direct study, but a matter for doubtful inference and speculation. Whether a given action does or does not indicate consciousness, and what kind of consciousness, this is most difficult to determine. Thus we have the most various interpretations, some as Clifford, even going so far as to make psychic phenomena universal in matter, others, on the other hand, as Descartes, limiting them to man alone.

The difficulty of this subjective method, this reflex investigation, is almost insurmountable. Consciousness must act on both revealer and revealed; must be a light which enlightens itself. A fact of consciousness to be known, must not simply exist like a physical fact or object as a piece of stone, but it must be such that the observing consciousness realizes or re-enacts it. Consciousness, be-

cause of its self-directive and self-reflective power, is the most elastic of functions.

Hiram M. Stanley says : "No amount of objective physiological research can tell us anything about the real nature of a feeling, or can discover new feelings. Granting that neural processes are at the basis of all feelings and of all mental activities ; we can infer nothing from the physiological activity as to the nature of the psychic process. Nor can we gain much light even if we suppose—which is granting a good deal in our present state of knowledge —that there exists a general analogy between nerve growth and activity, and mental operations." If relating, i. e. cognition, is established on basis of inter-relation in brain tissue, if every mental connecting means a connecting of brain fibres, we might, indeed, determine the number of thoughts ; but we could not tell which the thoughts were. So if mental disturbance always means bodily disturbance, we can still tell nothing more about the nature of each emotion than we knew before. So we can go on and analyze other phenomena, of which we know positively little at the present state of our research in psychology.

Gross physiology, and psychology alone is not enough to decide for us such an intricate and delicate question. It is, therefore, that we are obliged to seek aid amongst the collateral science, which goes hand in hand with physiology and psychology ; *that is biology.*

Is it possible that such a plump of living matter as the brain dies immediately after decapitation ?

Protoplasm is known to live for sometime outside of the body when severed from its avenues of supply upon which it lives. The blood of the body acts as food and air supply to protoplasm, and when this is cut off, does not immediately kill the brain cell ; though many of the important nerves supply and the large blood vessels are severed, which

drains the brain of its direct nourishment and its communications. That, by no means, is proven by physiology alone, that the brain is dead to impulses, etc. We must have at our command much finer and correct test methods of ascertaining, whether the brain lives after decapitation and still performs some of its physiological phenomena, before any kind of a decision can be arrived at. No one has proven, even as yet, the difference between a dead and a living brain cell. How is it then possible for us to know exactly what a live brain cell looks like from that in contra-distinction to a dead one? If we can once differentiate between those of dead and live brain cells—we could more easily ascertain how long before death of these cells take place, and thus aid us in this investigation. Should it become possible to make such distinction between the cells, time sections could be taken from the brain of a decapitated individual, and the difference noted from time to time. This would then solve the exact life of a brain cell after corporal death by decapitation—and perhaps other forms of death. I cannot believe that every brain cell dies simultaneously—as they have their own cell life.

As I said before, that it is an absolutely undisputed fact that protoplasm lives after it is taken from a living subject. But the brain cells are killed by preparing it ready, so as to be made demonstrable to the eye of the microscope. There can be but little doubt that the brain matter is alive—but thus far cannot be made known to the eye without undergoing a special chemical preparation—which destroys the life of the cell. If then such important facts stare us in the eye, that an ordinary cell can be made demonstrable while alive, under the microscope, which does not need the special preparation, which kills it, why could it not be possible that the brain cell

does also retain its life, as it is of the same constitution and has the same powers as any other cell in the economy?

In carrying out my argument, we must not lose sight of one important fact, which must be taken into consideration, that if an individual is decapitated, that he is in as nearly a physiological condition as possible, under the circumstances, and therefore must have much weight bearing upon the subject before me.

What do we Understand by a Cell?

Both plants and animals, although they differ so widely in their external appearance, are fundamentally similar in their anatomical structure; for both are built up of similar elementary units, which, as a rule, are only to be seen with the microscope.

The microscope, that will penetrate, however, into the interior of the very nucleos of a cell, has not as yet been invented.

These units, in consequence of a hypothesis, which was once believed in, but is now discarded, we called cells; and the view that plants and animals are built up in a similar manner, of these extremely minute particles, is called the *cell-theory*. The cell theory is rightly considered to be one of the most important and fundamental theories of the whole science of modern biology.

In the study of the cell, the botanist, the zoologist, the physiologist, and the pathologist, go hand in hand if they wish to search into the vital phenomena which takes place during health and disease. For it is in the cell, to which the anatomist reduces both plant and animal organism, that the vital functions are executed; they, as Virchow has expressed it, are the vital elementary units.

Regarding from this point of view, all the vital processes of a complex organism appear to be nothing but the highly-developed result of the individual, vital processes

of its innumerable, variously functional cells. The study of the processes of digestion, of the changes in muscle and nerve cells, leads finally to the examination of the functions of glands, muscle, ganglion and brain. And just as physiology has been found to be based upon the cell-theory, so has the study of disease been transformed into a cellular-pathology.

Hence, in many respects, the cell-theory is the centre around which the biological research of the present time revolves.

Further, it forms the basis of the study of minute anatomy, which consists in examination of the composition and minute structure of the organism.

The study of the vital properties of the cell takes one into deeper analysis of its own world. Amongst the last written up discoveries on protoplasm, I found by Pro . Oscar Hertwig, of Berlin, who says, regarding the vital properties of the protoplasmic cell, the following:

"All the mysteries of life, which are exhibited by plants and animals, are present in the simple cell. Each rudimentary form, like the whole complex organism, has an independent life of its own. If we wish to study more deeply the true nature of protoplasm, we must above all things investigate its most important properties, its so-called vital properties. However, life of the simplest elementary organism, is a most complex phenomenon, which it is most difficult to define; it manifests itself to use a wide generalization, in this, that the cell in consequence of its own organization, and under the influence of its environments, experiences continu changes and develops powers, by means of which its organic substance is being continually broken down and built up again." During the former process, energy is set free. The whole vital process, as Claud Bemord expresses it, depends upon

the continual co-relation of this organic destruction and restoration.

These complex phenomena, which are continually exhibited by protoplasm, can be classified under three heads :

1. Phenomena of movement.
2. Phenomena of irritability.
3. Metabolism and formative activity.

Thus each living organism exhibits three different fundamental functions or properties, by means of which its life is made manifest; it can alter its form and exhibit movements; it reacts to certain external stimuli in various ways; that is to say, it is irritable; it has the power to nourish itself; it can be absorbing and transforming food material, and by giving up waste products, form substances, which it utilizes for growth, for building up tissues, and for special vital functions; finally, it can reproduce itself.

The most remarkable property of protoplasm is its power to reacting to stimuli, Metabolism and Formative activity. The possession of these last functional properties of protoplasm, stand out almost as positive proof that the cell retains its life for some time, and lives upon its own independent resources after death by decapitation in a person or animal, in a true physiological state of life. We find that if stimulation is applied long after death to the nerves or muscles of a body by electricity,—the current immedidiately shows us a reaction. If death of cell took place simultaneously, no reaction would be possible. Also a heart, if taken out of a cat or dog, after decapitation, it will beat in rythms for some time, etc.

Sachs' referring to external stimuli, expresses his views in saying : "By this is understood, the power possessed by living organism alone, of reacting to the most various external stimuli, in one way or another." It is chiefly

through this irritability that living objects can be distinguished from non-living ones, and in consequence, the earlier natural philosophers considered that it was the expression of a special *vital* force which was only to be seen in organized nature.

Modern science has discarded the theory of vitalism. Instead of explaining irritability by means of a special vital force, it is considered to be very complicated chemico physical phenomena, differing only in degree from other chemico-phenomena of inanimate nature. That is to say, the external stimuli came into contact with a substance very complex in structure, an organism which is an exceedingly complicated material system, and in consequence they give rise to a series of very complex phenomena.

"However, care must be taken in accepting this mechanical conception not to fall into the very common mistake of trying to explain vital processes as being due *directly to mechanical* causes, in consequence of their analogy to many phenomena seen in inanimate subjects. It must never be forgotten that there is no substance in inanimate nature which remotely approaches the living cell for complexity of structure, and that hence the reactions of such a substance are of necessity correspondingly complex in character."

"The field of the phenomena of irritability is exceedingly wide, since it embraces all the correlations which take place between the organism and the outer world."

The stimuli which act upon us from without are innumerable. These can be placed under five heads:

1. Thermal Stimuli.
2. Light "
3. Electrical "
4. Mechanical "
5. The almost infinite variety of chemical stimuli.

When any organism responds to any one of these stimuli it is called *reaction.* This reaction, we are told, varies very considerably with different individuals. Even they are exposed to the kind of a stimuli. It depends entirely upon the structure of the organism, or upon its finer properties, although these may not be perceptible to us. Sachs gives us a *simile* to those reactions on different organisms, viz.: We may be compared, in this respect, with variously constructed machines, which, when set in motion by the same external force, heat, produce different useful effects, according to their internal structures. Similarly, the same stimulus may produce *quite different effects in different organisms, according o their specific structure.*

Experiments show us that many protoplasmic bodies are to a certain extent attracted, whilst others are repelled, by light; a similar difference will be seen when the action of chemical reagents, etc., on protoplasm, is studied in the laboratory. Hence certain terms have been coined to bear out the exact scientific meaning to the action of these different stimuli. The terms *positive and negative heliotropism, positive and negative chemotropism, galvanotropism, and geotropism.* These terms describe the varying effects.

A phenomena is exhibited, in some respects, the exact opposite to the one just spoken of, must also be explained by the varying specific structure of the stimulated substance; the term *specific energy* has been used for describing such a p enomenon. Above was shown that protoplas mic bodies, differing in structure, reach in various ways to the same stimulus. It is found, on the other hand, that similar effects are produced upon the same protoplasmic body by very different stimuli, such as light, electricity, or mechanical injury.

Already we know that a muscle cell responds to all kinds of stimuli by contracting a gland cell by secreting. An

optic nerve can only experience the sensation of light, whether stimulated by light waves, electricity, or pressure. Similarly, as Sachs has pointed out, plant cells also, are furnished with their specific energies. Tendrils and roots bind themselves in a manner peculiar to themselves, whether stimulated by light, gravitation, pressure, or electricity. The effect of a stimulus bears specific stamp, so to speak, of the special structure of the stimulated substance, or, in other words, irritability is a fundamental property of living protoplasm, but is manifest itself in specific actions, according to the specific structure of the protoplasm, under the influence of the eternal world. Claud Bernard has expressed a bearing much the same view on this fact.

Speaking generally on this fact of irritability, Prof. Oscar Hertwig remarks that another peculiar phenomenon deserves special attention, namely, the transmission *or conduction of stimuli.* If a small portion of the surface of a protoplasmic body is stimulated, the effect produced is not limited to this point alone, but extends to far outlying circles. Stimuli, as a rule, are more quickly transmitted in animal than in vegetable bodies ; in human nerves, for example, the rate is 34 metres per second. Here we can see the cause for the phenomenon exhibited in criminal bodies, long after death, that when a stimuli like electricity is applied to a piece of muscle or nerve, a re-action is the immediate result ; such a contraction or twitch—either when applied to the body itself, or piece resected from it. This alone, is another proof, that the cell has an independent life and does not die when life is pronounced by the physician or physiologist as being extinct. Many hundred such important examples founded on biological and finer physiological studies could be cited, but not in a lecture of such a short duration.

Again the Professor tells us in his work: "Finally, another peculiarity of organic matter is its capacity of returning more or less completely to its original condition, after a period, varying in length, of rest or recuperation, has elapsed, since the cause of irritation was removed. I say advisedly, 'more or less completely,' for very often the organic substance is permanently attended in its structure and reacting powers by the application, for a considerable period, of a stimulus, or by the repeated action of the same stimulus. This phenomenon thus produced is spoken of as the *after effects of stimulation*, or better, the tiring effects."

As a rule, we are not in a position to determine whether or no a body can be stimulated, that is to say, whether it reacts to changes in its environment, since *most of the effects due to stimulation are imperceptible.*

As I said before, protoplasm possesses so many characteristics in order to show their vital properties, I could not begin to cite to you their numerous examples; however, let me just give you a few of them, amongst the different stimuli, just to judge for yourself the vital properties that protoplasm possesses. The stimuli, perhaps, which will be of most and momentary interest, are those of gases anaesthetics and electricity—as they have daily applications in surgery and medicine, etc. On the other hand, in the physiological economy, the gases of the blood play a prime role, and in decapitation almost the entire problem revolves around blood and its gases.

We find that all cells absorb gases and also substances in a fluid or disolved state, and hence diffusable conditions, finally many cells can make use of solid substances as blood. Protoplasm finally absorbs the most various kinds of substances in a gasous condition. (Oxygen, ni-

trogen, hydrogen, carbon, chloride, carbon monoxide, vitrous oxide, ammonia, chloroform, ether, and a large number of similar substances. Oxygen of carbon clioxide are the only ones of general importance in metabolism, and of these oxygen is the most important. Without oxygen life cannot continue. With very few exceptions (anærobic Bacteria,) etc., the respiration of oxygen is a fundamental characteristic of the whole of organic nature. As a rule, the lack of oxygen very quickly arrests the functions of the cell. But we find that the cell stores up all food and respirable gases, and it is therefore that the cell lives for a long time upon its own stores.

It is a well known fact that oxygen which is absorbed by man through the lungs serves to satisfy the need of oxygen evinced by all cells contained in the various tissues of our bodies. This last process is designated in animal physiology as internal or tissue respiration, in contradistinction to the taking in of oxygen, or lung respiration.

The living cell is therefore itself able, by means of its respiration, to regulate the amount of oxygen which it consumes. This mode of cell living upon its own gases is known as intramolecular respiration. Much detail knowledge is already known in connection with the life history of the cell, and cannot be gone into here further; suffice it, however, what I related.

Such anæsthetics as chloroform, ether, morphia, chloralhydrate, etc., have a marked influence upon the vital activities of the cell. These substances do not effect the nervous system alone, as is frequently believed, but all the protoplasms of the body. The difference is only a matter of degree; the irritability of the nerve-cell is more quickly lowered and finally destroyed than that of the plasm of other cells.

Further, when narcotics are employed medicinally, the

attempt is made to act upon the nervous system alone, for if all the elementary cells were affected, a cessation of the vital processes would result, and death might ensue. However, again, let me say, the following examples will prove clearly that the irritability of animal and vegetable protoplasm may be temporarlly destroyed, without permanent harm.

Electrical stimuli, as has been shown by the experimentors—Max, Schultze, Kuhne, Engelman and Verwarm—are also of much consequence. They have brought to us the exact knowledge that electrical currents, both constant, induced, act as stimuli, upon protoplasms. If the induction current is applied for a considerable time to one of the lower unicellular organisms, it can be gradually destroyed bit by bit, and thus diminished in size. Perhaps even more interesting and important than this process, are the *phenomena* produced by Galvanotropism, as shown by Verwarn, in a number of unicellular organisms. Many organisms, in consequence of the influence of the galvanic current, are caused to move in certain fixed directions, just as they move when stimulated by a ray of light.

Taking all these scientific truths, which thus far have been put forth and demonstrated to us by experiments and observations by the learned savants all over the globe, we can readily conceive not only the possibility that this independent life of the cell does not die as quickly as the outward appearance of our forms show and gross physiology points out to us.

There is no telling at present, by the coarse methods of observation, how much time is required for death of the cell to become apparent in the organ of the mind, *the brain.* I concede that consciousness, soon after decapitation, must cease; how soon, no one can exactly explain, as all experiments are too coarse to give us any positive reliance. After

all, there must remain a certain class of conscious state which such a person lapses into, which will remain for ever to us a closed book, and an abyss too deep for us ever to fathom.

Physiology teaches us that after the head is severed from the trunk and all the blood supply and nerves, etc., are disconnected, the direct loss of blood, which acts by arresting the intesexchange of gases in the body and brain, etc., suffices for life to end for all practical purposes. But science takes nothing for granted unless crucial proof lies alongside. This has been my object in taking up this matter from another point, and try to show that all is not as physiology alone says. Though physiology gives us examples, yet it can be easily performed from which we find, after decapitation, the cause for the biting or snapping at the air in young animals, *eg.*, as kittens. Also this phenomenon is well marked in the head of a tortoise, separated from the body. Then if we study the rapidly fatal facts of these factors on the respiratory activity, we observe that at first the respiration became quicker and deeper, then after an attack of general convulsion, ending in respiratory spasms, there follows a stage of complete cessation of respiration. Before this apparent death takes place, there are usually a few "snapping" or gasping efforts at respiration.

This physiological description of death by decapitation and others by similar kind, as I said before, is dealing with our knowledge only of gases, physically. But here biology comes in and teaches the finer points in connection with life and death. Certainly, from the many fine observations made upon the very life of our being, *the cell*, as you already have learned, which cannot die at the same rate of rapidity as the signs taught us by physiology—life, therefore, in this organ of the mind, the brain, does and

must live on for some time after, from the very fact, though being severed from the trunk and its nutritive fluids and gases, are taken from it, it nevertheless has stored up, as we learned, sufficient amount in the cells to carry on life for a longer or shorter period, as may be unknown at present as to time. If such are the true facts, how is it possible, by simple decapitation, to cause instantaneous death in the millions of brain cells which compose the brain?

In summing up my remarks, you see that all I pressed forward bears out my theory of the vital phenomena in connection with death by either decapitation or otherwise; that these facts also bear me out that I was not only talking, but this theory has a hand and a foot in the scientific reasoning of my discourse before you.

I wish, gentlemen, after you heard my remarks as based on experiments and scientific thought, you further to take into consideration the very fact that if cells have the power to retain life, of which they give us so much evidence, why, then, is it not possible for the brain cell to receive impressions still, after immediate decapitation, and hold them firm for some time; that no demonstration is given us sufficient to prove that fact. Nevertheless, such I believe to be the truth, and must side with Dr. Cinel, to whom we must be thankful for bringing his crude method to our knowledge.

INAUGURAL ADDRESS.*

BY ALBERT BACH, ESQ., AS PRESIDENT ELECT.

Officers and Members of the Medico-Legal Society:

I thank you for the high honor you have conferred upon me in electing me your presiding officer for the ensuing year. I trust that I shall not prove myself an unworthy successor of the eminent gentlemen who have in past years occupied the president's chair with so much credit to themselves and so much benefit to our Society. As Secretary and Vice-President of the Medico-Legal Society of New York, I have for upwards of sixteen years contributed my best efforts in furtherance of the interests of the Society and now that you have kindly elevated me to the highest official position therein, you may rely upon my devoting all my powers to carry on the good work so well inaugurated by my predecessors. To our outgoing president, Dr. McLeod, I beg leave to express the hope that he may be spared to us for years in the enjoyment of good health, yielding to us, as far as practicable, his advice and assistance in the administration of the affairs of the Society. We all feel that Dr. McLeod takes a lively interest in the advancement of medico-legal science, and that we will at all times find in him a willing coadjutor in our labors. To our present board of officers I appeal for active aid in the effort of making the Society an important factor in the administration of justice, and in the betterment of the condition of our fellow-beings. It is my earnest desire that every member of the board will participate in the manage-

* Delivered January 30, 1899.

ment of the affairs of the Society and freely express his views and suggestions at executive-committee meetings, as to the ways and means of increasing the usefulness of our labors. I do not believe in a president arrogating unto himself any autocratic power, and I deem that the best interests of the Society will be subserved by a frank and unrestrained interchange of opinions between all the officers and members of the Society. We would do well to emulate the example, as a medico-legal enthusiast, of our worthy secretary, Mr. Clark Bell, who as president and secretary, and indeed as one of the fathers of this Society, has done more hard and valuable work in its behalf than any other member of it. I wish you to feel assured that I shall always be ready to confer and coöperate with you my confreres, in the performance of my duties, and that nothing will afford me greater satisfaction than your belief that, although your chief executive officer, I will respectfully listen to and follow your wise counsels.

Let it be our object to familiarize not only the learned professions, but also the general public, with the fact that medico-legal science is not a dead letter science, but one whose doctrines and precepts are not only intimately connected with advanced civilization, but constitute part of the foundation thereof. When it becomes generally known that this Society considers, investigates and discusses at its meetings, such subjects as are hereinafter enumerated, and in addition to the consideration, investigation and discussion thereof, furthermore endeavors to bring about legislative action in reference thereto, surely a lively interest will be awakened in our work, and substantial assistance will be granted to us by our prominent and influential fellow citizens. The subjects I refer to are as follows, to wit: Insanity, the insane; insanity laws; the care of the insane; the management of insane hospitals; criminol-

ogy, anthropology; sanitation and sanitary laws; sociological studies; inebriety; the liquor traffic; the responsibility and accountability, criminally and civilly of the mentally weak and diseased; the medico-legal aspect of heredity; railway surgery; clairvoyance; telepathy; experimental psychology; psychometry; hypnotism, the claims of modern spiritualism; fraudulent life insurance; suicide and anti-suicide laws; the duties and liability of the physician in the practice of his profession; the medico-legal aspect of privilege communications between physician and patient and a number of other subjects embraced in the field of medico-legal science, which will readily suggest themselves to the minds of my auditors. To me it always has been, and now is a matter of surprise that lawyers and physicians should so little appreciate the great consequence of medical jurisprudence in the conservation of legal rights and the amelioration of human unhappiness. Must we admit that the professions of the law and medicine have degenerated into mere trades, wherein the all-absorbing motor force is money-making. Shall we remain passive in the face of the smiling, derisive and even pitying assertion that to be an enthusiastic student of medico-legal science is to be an idle dreamer, nay an incorrigible crank. Is this the case of the school master being abroad? If the word "abroad" be deemed synonomous with the word "absent," we answer, yes; but if the word "abroad" is defined as "among the people," then we answer, no. The difficulty is that there are not sufficient school masters engaged in teaching this science. Its elementary principles should be taught in every school, its advanced doctrines should constitute a part of every college education. I consider a thorough knowledge of this science as a *sine qua non* to the lawyer in the successfnl pursuit of his profession. The criminal lawyer and also

the civil lawyer soon awakens to a consciousness of his helplessness by reason of his ignorance of medico-legal science, and when occasion arises how he struggles to learn all its teachings in the preparation of one case for trial. And yet notwithstanding the object lesson so often presented in our Courts, of inability to either properly prosecute or defend or to judge a case, by reason of a lack of knowledge of medical jurisprudence, the laissez-aller policy prevails, and justice is defeated. Every judge and every lawyer should be a close student of legal medicine, for otherwise they are not equipped to properly try a case involving questions of legal medicine. It is a common fallacy to believe that the criminal lawyer alone is in need of this learning, its possession is just as necessary for the civil lawyer as for the criminal lawyer. Our civil tribunals have to pass on medico-legal questions and evidence in contests over testamentary dispositions, in damage suits, in insurance cases, in insanity cases, in divorce cases, in cases affecting the right to inheritance, and in many other classes of cases wherein medicine must come to the aid of the law. I believe it would be of incalculable advantage for every lawyer to take a full course in a medical college and graduate as an M. D. Our Society so far from being looked upon as an aggregation of scholars of an obstruse, repellant science, as mere doctrinaires, men of black-letter lore, to be shunned, should be considered as a public necessity, membership in it should be eagerly sought, and its meetings should be attended by the public at large. We must popularize the teachings of the science, we must demonstrate to the community that it is essential for the public weal that the doctrines of the science be widely promulgated, to the end that life, health, liberty, reputa- and property may be adequately protected. In this connection we call upon the public press, that greatest of all

nstructors, that custodian of the health, honor and integrity of the community, that mighty and irresistible force in the advancement of higher civilization, to lend us in the future at it has done in the past, the invaluable boon of space in its pages to disseminate far and wide the truths of medico-legal science.

It is not necessary, nor would it perhaps be proper in an inaugural address, to go into a narrative of the birth and growth of medico-legal science and medico-legal societies, suffice it to say in the language of Mr. Austin Abbott, taken from a paper read by him before this Society, that "in the course of justice, the law in investigating questions which involve scientific knowledge, calls on the medical profession for information and instruction, medical knowledge and medical reasoning, and the knowledge and reasoning which is the peculiar gift of the medical profession upon scientific subjects generally, here is brought into the service of the law; and while on the one hand the law directs what inquiries may be made and in what manner and how far they shall be prosecuted and what legal consequences shall be affixed to the conclusion which science presents, it is scientific aid and assistance which the law within these limits seeks for, and the instruction and knowledge which the medical profession give are of increasing service in the administration of justice. This is the department of forensic medicine or medical jurisprudence in the stricter sense of that term. But we see another class or mode of coöperation between the professions in which medical men, discerning what is necessary for the welfare of the community, and observing the habitual indifference of the community upon the subject, call upon the law to provide by legislation the rule of conduct, and enforce it by the administration of justice. It is in this method that sanitary legislation has been so admirably

developed within the present generation. This department is what we usually designate by the term 'State medicine.' These two fields, state medicine and forensic medicine, make up the area in which the domains of the two professions overlap each other. In the first (forensic medicine) lawyers take the initiative, the law calling the physician to the aid of its administration; in the second, physicians take the initiative and the principles of sanitation in the hands of the medical profession call the lawyers to their aid for enforcement."

Thus it is that we find an inter-dependence between the disciples of the two great professions of law and medicine, which must be carefully fostered, in contemplation of the fulfilment of the highest destiny of man. In the dispensation of justice there is an inevitible, inviolable union between medicine as the science unfolding physical laws and jurisprudence as the science unfolding and enforcing the moral law. The field of the operations of such a Society as ours is, as broad as the vast domain of sociology, involving the consideration of the reciprocal relations and duties of the individual to society at large and of society at large to the individual. We have in the past given what aid we could in the solution of sociological problems, let us continue with increased energy in the task of still more completely solving these problems.

In the acquisition of medical-legal learning there should be the greatest harmony between the votaries of the medical and legal professions, indeed by reason of the reciprocative aid necessary to be yielded by one profession to the other in the consummation of the public welfare, there should be a firm and lasting brotherhood between these two professions. All prejudices and jealousies and antagonisms between the physician and the physician, and between the lawyer and the lawyer, must be exterminated,

and the utmost confidence, reliance and trust between them must be engendered, developed and permanently established. The key note to such a relation as I advocate between the men of medicine and the men of law is the honest desire to promulgate naught but scientific truth. The medical profession should devote all its energies, irrespective of the consequences, to the revelation of scientific truth and scientific truth only, the legal profession should encourage the medical profession in this laudable purpose, and labor for its accomplishment. The two professions should refuse to be party to any effort to dim the light of science. Medical experts should not lend themselves to a scheme of befogging the scientific atmosphere surrounding the trial of a cause, their's is the duty to purify and clarify that scientific atmosphere, so that the rays of the scientific sun may penetrate and permeate every part of the juridicial atmosphere. One of our Supreme Court Judges recently stated in an address by him delivered before a sister society in this city, what was particularly needed in the medical expert is absolute honesty, and we unreservedly subscribe to that assertion, but we go further and say that in order that there may not be the slightest temptation to be dishonest on the part of the medical expert, the lawyer should be perfectly honest himself. If absolute honor and honesty prevailed in both professions there would be no reason for adverse criticism of the medical expert and his testimony. It is only when honesty and truth constitute the foundation of opinion that opinion evidence is worthy of any consideration whatever. If there were entire accord between the medical and legal professions in the determination to present nothing but scientific truth to the judge and jury, inestimable aid would be afforded the proper administration of justice. The medical expert should never be the advocate for

either party to a litigation, he should look upon himself as the high priest of the temple of scientific truth, at whose altars, judge, jury, lawyers and litigants should kneel and worship. The dispensation of justice, so essential to the development of the highest civilization is in a marked degree dependent upon the irresistible and conclusive demonstrations of science, and narrow-minded indeed is he who failing to recognize this fact, would attempt to belittle the invaluable importance of honest medical expert evidence, in the establishment of the rights and the redressing of the wrongs of man. Science is the greatest of all detectives and the cunning and deviltry of the criminal cannot escape its disclosures when honestly sought and made. There is, however, danger of the perversion of the office of science in the commission and defence of crime, and the only preventive of such a calamity is honesty of purpose among scientists in coming to the aid of justice and thwarting the efforts of those who would debase the uses of nature's forces and misrepresent nature's laws. It has been said that there should be no more surprise as a difference of opinion between medical experts on medical questions that at a difference of opinion between lawyers and between judges on legal propositions, and whilst we may admit that this is so as to an honest difference of opinion substantiated by forcible reasoning, it is not so as to a difference of opinion finding expression in the utterance of a mere "yes" or "no" without any reason for such diametrically opposing views, except the dogged categorical affirmation or negation of the so-called expert. We have in this society a member who once was a practising physician of good standing and a medical expert himself, is now a practicing attorney of good standing, who publicly asserted at one of our meetings, that whilst he was practicing medicine, he absolutely rejected the idea

that a medical expert would wilfully perjure himself in giving his opinion as an expert on the witness stand, but that since he took up the practice of the law he was bound to admit from his own experience as an attorney in the trial of a cause, that some medical experts do commit perjury on the witness stand, testifying as experts. I would not refer to this admission of a medical expert except that he did not hesitate to make it publicly—and except that as coming from a reputable member of the medical profession it has great force and lends, with the experience of bench and bar generally, justification for much of the adverse comment we hear concerning the unreliability of medical experts. Of course the medical expert witness when dishonest, feels that he may testify as to his expert opinion, without fear of prosecution for perjury, and therefore he does not hesitate to swear to anything to subserve the interest of his employer. If the expert is honest he has nothing to fear from the lawyer who is cross-examining him. There is a prevailing opinion among physicians that attorneys take especial pleasure in badgering and brow-beating and bully-ragging medical experts when they are on the witness stand. There are, I admit, some attorneys who indulge in these improper practices, but men of high standing in the legal profession would not descend to such methods. However, one who is actually a medical expert, intent upon telling only the truth, can easily disconcert any mere blusterer at the bar, and make of him a laughing stock for all by-standers. The immediate remedy for the ungentlemanly conduct of a lawyer towards a medical expert on the witness stand, is an appeal for protection to the presiding judge, but the cure lies in the building up of a brotherhood between lawyers and physicians founded upon mutual respect and esteem, respect for learning, respect for honesty and purity

of character and purpose, esteem for the possession of all those qualities which elevate us above the plane of mere beings, and make us human beings, with humane hearts and humane impulses, leading us to uphold justice and defeat injustice. Let our Society inaugurate and foster such a brotherhood as I suggest, and we will have done a good work, and if we succeed in this the most important step towards the advancement of medico-legal science, a long list of benefactions will inevitably follow. The importance of increasing the trustworthiness of scientific experts and their testimony, will be readily appreciated, when it is understood that without such trustworthiness, the evidence of scientific experts tends to defeat justice and to hold up to public scorn and contempt the expert themselves. Science is the embodiment of truth, the danger lies in the misrepresentation of science. Justice owes an everlasting debt of gratitude to science, let the expounders of science see to it that they do not interfere with that obligation.

I have dwelt thus on this subject of medical expert testimony, because I deem the establishment of confidence in the medical expert an imperative necessity in the administration of justice, and a consummation towards which we should bend all our energies. If it be said that such confidence is dependent on honesty and that this honesty in the medical expert is beyond the control of this Society, I reply that this Society can at least make the effort to enforce honesty in the medical expert and in the lawyer as well, by causing them both to be disciplined and punished for dishonesty in the practice of their respective professions. If you ask me how we can bring about such discipline and punishment, I answer by telling you, that every physician and every lawyer should report to this Society the unprofessional conduct coming under

his immediate observation, and then in turn this Society can report such unprofessional conduct to the Bar Association, and to the Medical Societies of this city for their respective action. Of course if we are to adopt the saying that everybody's business is nobody's business, we will not fulfil our duty, and the evil will continue to exist; but if we desire to advance the possibilities of medico-legal science, we must perform our duty in this regard.

I recommend that our Society hire suitable quarters for a home and that our library be placed there so that members may have access thereto, and that the old resolution adopted years ago, that every member give yearly one bound volume on medico-legal subject to the library, be resurrected and carried out. I believe that if this recommendation is put into practical operation much good will result.

The psychological division of the Society should be encouraged in its work, and the earnest students in this field of investigation, should be solicited to give us the results of their researches. The study of psychological manifestations is at present engaging the leading minds of the world. The potentialities of psychic force constitute a perfect wonderland, and whereas there is to-day much scepticism among judges and lawyers as to the influence of psychic force over human actions, it is inevitable that our courts will have to recognize that influence in the administration of justice. That branch of our Society which devotes its attention to railway surgery is one of great consequence, considering, as it does, questions of how to protect the general public whilst using our gigantic railway systems, so as to prevent the spreading of contagious diseases, and reduce to a minimum injuries upon railways, and render the best possible surgical assistance in the event of such injuries. Surgery in its medico-legal aspect is an exceedingly interesting and important subject, and by reason of its almost exactness as a science, affords but little opportunity for perjury on the part of the expert therein whilst testifying on the witness stand, and particularly is this the case since the Roentgen Rays have been

discovered, and can be used in disclosing the physical injury sustained, and in the determination of whether that injury has been properly treated.

We should start a new branch or section of the Society, the province of which should be the consideration of sanitation and sanitary laws. I believe that such a section would be very popular and would attract the general public. The mere mention of some of the many topics affecting the general health, that would naturally come up for discussion, before a section on sanitation, will show the advisability of establishing the section, to wit: Compulsory vaccination; sewerage and drainage laws; habits and conditions in public conveyances and public buildings; health boards and their powers and duties; quarantine aws; department of vital statistics; inspection of food productions; treatment of employees in factories and large department stores; the liquor traffic; marriage between victims of physical and mental disease; employment of very young children in theatres and places of public amusements, etc.

I recommend the appointment of a permanent committee on legislation, to take charge of the presentation to the Legislature of the memorials and views of this Society on proposed amendments to existing laws and enactment of new ones, as to matters within the scope of our labors.

I could mention, if time permitted, several reforms necessary in our lunacy laws, and also in the law respecting privileged communications between physicians and patients, and in the laws relating to suicides; but I refrain, because this address is somewhat longer than I intended it to be. I trust, however, that I have not wearied you. May I hope that my remarks will lead you to realize that the New York Medical-Legal Society is worthy, not only of your support, but also of the support of the entire community, by reason of its past accomplishments and future possibilities.

PRACTICE OF MEDICINE AND CHARLATANISM.*

BY PROF. P. BROUARDEL, HONORARY MEMBER MEDICO-LEGAL SOCIETY.

In his professional character the physician participates in every phase of family life, and also in many others which are of high interest to the state and communal administration, as well as the administration of justice.

Now all this is governed by laws, decrees, regulations, and even international traditions.

While studying in universities, the young doctor has been eager, and this with reason, to acquire the maximum of possible knowledge upon diagnosis, prognosis, and the treatment of diseases. But as a student he has come in contact only with patients in the hospital; the chief of the clinical service has treated exclusively questions relating to the nature, evolution and the mangement of the dieseases; the directors and managers of the hospital are bound to supervise the regular carrying out of all formalities foreseen by the laws, and also concerning the births, burials, mental alienation, etc. The student has not heard of such formalities, he has hardly a slight idea of them; sometimes he goes even so far as to consider, with a certain contempt, the regulations which are executed beside him, but without his co-operation.

This is the reason why, when he commences to practice medicine, he feels many a time embarrassed as to how to

* Translated from the "Le Mois Medico-Chirurgical," by A. Courbalk.

execute, in due form, the different acts required by the administrative and judicial authorities.

He is fully aware that according to the ancient formula, nothing whatever which concerns and pertains to humanity, should be a matter of indifference to a physician, and he thinks that he will find in his conscience the means necessary to meet successfully all emergencies; certainly he cannot find a better guide; but it is not sufficient to be willing to do well; the student must know how to do it, and in ignoring the laws by which he must abide, he runs the risk of impairing the interests of his patients as well as his own.

Therefore it often occurs that students annd doctors apply to the dean of the faculty for authorizations, exemptions, and favors, against laws which are compulsory from the minister of education and the dean to the student, regulating the rights of every one. The students are not able to comprehend the distinction between a law, a decree, a ministerial decision, and an internal regulation; whether their demands have been complied with or declined, as the case may be, they come to the conclusion that a favor dependent solely on good will has been granted or refused; this state of mind is not new, but traditional, and doctors have been frequently reproached therewith.

How can it be remedied? By compiling carefully in a medical code, the laws, decrees, decisions of the courts and the jurisprudence of the medical profession? This would seem the most logical, and still it has so far yielded very uncertain results; the doctor who is little or not at all conversant with judicial terms feels discouraged at the aridity of the text book, and if he seeks it for elucidation of a case in which he is personally concerned, he gets lost in special questions, in the interpretation of the text, and he thinks sometimes that such and such a decision was

entirely prompted by arbitrary power. Therefore it seems a useless undertaking to try to entrust a jurist with the task of expounding the obligations and regulations imposed upon a physician; the physician and the jurist speak two different languages.

On the other hand, I do not feel competent enough to substitute myself for the jurist, and to interpret into medical language the principles of the law.

Prior to attempting this compendium of elementary principles of law, I should have to develop a kind of doctrinal theory, which I am not capable of building up.

I was formerly of the opinion that the object in view could be attained by another proceeding.

A certain number of our colleagues have unintentionally trangressed the laws, and made themselves liable to the consequences of such infractions; they have been frequently prosecuted, and sometimes even convicted. In placing before the students and doctors in its true light the rela tion of facts which have thus compromised some of us, I hoped that their attention would be aroused, and that in their turn, they would not be again guilty of the same mistakes.

This is the result I had in view, when last year, apropos of the "Responsabilite Medicale," I presented a a detailed study of the general laws which govern medical ethics, such as the medical secret; declaration of births; medico-legal expert testimony; and I have devoted the current year for expounding the law of November 30, 1892, which governs the practice of medicine.

Fearing less I should dwell too much in generalties, I have undertaken the examination of the difficulties which are of very frequent occurrence in the practice of medicine, surgery, and obstetrics.

I pointed out the dangers that doctors and patients in-

cur through unreadable, incomplete and erroneous prescriptions and the use of certain special drugs and of some alkaloids.

I was inspired by the lectures of Prof. Fournier, and I endeavored to lay down the rules that the doctors must observe in order to preserve families and the nurses from syphilitic infection.

Finally I devoted a few pages to the study of medical charlatanism and of illegal practice; and I indicated their principal forms, but I do not lay any claim to have exhausted the matter.

Such are the ideas which have guided me in the writing of these two volumes.

If I succeed in removing some of these difficulties over which a great number of my colleagues have stumbled in the course of their practice, I shall consider it a great reward.

TRANSACTIONS.

MEDICO-LEGAL SOCIETY.

ANNUAL DINNER—JANUARY MEETING, 1898

The annual dinner of the Medical-Legal Society and January meeting, was postponed from the third Wednesday to the 30th of January, 1899, and was given at the hotel Savoy, Fifty-ninth street, and Fifth Avenue, New York city.

The retiring President S. B. W. McLeod, M. D., it was announced, had gone out of the city to attend the funeral of a relative, and Ex-President H. W. Mitchell, M. D., was called to the chair, and Clark Bell, Esq., and Secretary.

There was a large fashionable attendance.

The Committee of Arrangements, for the dinner was :—George W. Grover, M. D., Chairman ; J. Mount Bleyer, M. D. ; H. W. Mitchel, M. D. ; Prof. Charles A. Doremus and F. H. Doris, Esq.

After the Coffee—The minutes of the December meeting were read and approved.

The following were duly elected to membership on the recommendation of the Executive Committee :

George W. Smith, Esq., 45 W. 25th Street, New York City ; Jacob R. Ababarnell, Jersey City, N. J.

Mr. Clark Bell offered the following preamble and resolution, which were duly seconded and unanamously adopted :

WHEREAS, The English Home Secretary commuted the sentence of death pronounced against Florence B. Maybrick, for the alleged murder of her husband, by poison, to imprisonment, during her Majesty's pleasure for the alleged reason "that the evidence did not wholly exclude a reasonable doubt whether his death was in fact caused by the administration of arsenic," which action was upon the advice of the trial judge, who shared the doubt entertained by the Home Secretary, as the reason for the action, and

WHEREAS, We believe, that if the jury who tried her, had entertained the same doubt, as to her guilt of the crime charged as induced the Home Secretary, to commute the sentence, it would have been their duty, if properly instructed, under the law of England, to have acquitted her on the trial, as it was their clear duty to have done, upon all the evidence in the case in our opinion, and

WHEREAS, From a careful examination of the evidence, it is in our opinion not only probable, but quite certain, that Mr. Maybrick's death, was not in fact due to arsenic at all, but to other causes, and

WHEREAS, It is the opinion of many British counsel of eminence, who have carefully examined the evidence upon the trial, among whom is the Lord Chief Justice of England, that she was not guilty of the crime for which she was indicted and tried and should therefore be released, and

WHEREAS, The belief in her innocence of the crime for which she was tried and condemned, is almost universal among her American coun-

trymen, which belief is shared by a very large number of the people of the British Islands, where she is and has been for more than nine years confined in an English prison, and

WHEREAS, The request of the President of the United States, who deems her innocent of the crime for which she was tried and condemned, for her release as an act of international comity, has been refused by the English government, and

WHEREAS, Her long, and as we believe, unjust imprisonment is a source of irritation in America, and a hindrance to that complete and hearty feeling of amity and friendship that is felt in the American states towards England, and which we believe is shared by a large number of the people of Great Britain, and

WHEREAS, We believe that her release would greatly tend to cement and establish a more perfect and sincere friendship between the two countries, therefore be it

Resolved, That a committee of seven be named by the Chair, whose duty it shall be to memorialize Her Majesty, the Queen of England, through the Home Secretary of Great Britain urging her release, with power to said committee to call for the signatures of others to petitions, praying for her pardon and release from her present imprisonment.

The Chair appointed as such commitee :—Clark Bell, Chairman, of the Bar of New York City ; Judge Charles G. Garrison, of the Supreme Court of the State of New Jersey ; Judge L. A. Emery, of the Supreme Court of the State of Maine ; Judge Michael H. Hirschberg, of the Supreme Court of New York ; Judge Pardon E. Tillinghast, of the Supreme Court of Rhode Island ; Ex-Judge Abraham H. Dailey, of Brooklyn, N. Y.; Ex-Judge A. J. Dittenhoefer, 96 Broadway, New York City.

Ex-President H. W. Mitchel in the chair, explained the enforced absence of the President S. B. W. McLeod, and made a short address on the work of the Society in the past, and in introducing the President elect, spoke of his services to the Society in the past, and declared the newly elected officers for 1899 installed, introducing Mr. Albert Bach, who, on taking the chair pronounced his inaugural address, and at the close introduced Mr. Clark Bell, whom he announced would act as Toast-master for the post-prandial ceremonies.

Judge Fursman, of Troy, N. Y., who had accepted an invitation to be present, was unable to appear, and Judge Kellogg, of the Supreme Court, who had also accepted, was detained at his home by the storm and was unable to be present.

District Attorney Asa Bird Gardiner, responded to the toast of "The true Role and duty of a Public Prosecutor."

Rev. Phoeb A. Hanaford, spoke on "Psychology in Forensic Medicine," and at the close of her address offered the following resolution, which was on motion unanimously adopted :

WHEREAS, The members of the Psychological Section of the Medico-Legal Society perceive the great need of light and truth and wisdom, in all those who would help the race to have "sound minds in sound bodies, therefore

Resolved, That the Psychological Section—recognizing the malign influenee of intoxicating liquors upon the brain, and the equaly—(perhaps worse, because more insidious) evil influence of narcotics and drugs that affect the brain, this Section trusts that the Medico-Legal Society will continue its researches into the cause of insanity, and if it finds, as it surely will, that psychological health depends largely upon freedom from these influences, the members will use their personal influence, and lend their example to the banishing from common use, those things which hinder good judgment, cloud the mind, and add to the sorrows of the world,

Thereby establishing good sanitary laws and practices, and thus hastening the time when health will be the rule rather than the exception, and justice shall be assured to each and all.

Judge A. H. Dailey spoke for the "Bench and Bar;" Prof. Charles A. Doremus, to the toast of "Chemistry;" Rev. M. Schulman spoke on the nomination of Ex-Coronor Ellinger, on the "Advance of Sociological Science;" Simeon N. Leo, M. D., spoke on "Early History of the Medico-Legal Society;" Nathaniel Miles on "The Old Time Doctor and Lawyer;" Register Fromme on "The Junior Bar;" George W. Smith on "Longevity, and the One Hundred Year Club."

The evening was most agreeable and enjoyable.

ALBERT BACH, President.
CLARK BELL, Secretary.

FEBRUARY MEETING—1899.

The February meeting of the Medico-Legal Society, was held February 15, 1899, at the Waldorf Astoria. President Albert Bach, Esq., in the Chair, and Clark Bell, Esq., Secretary.

The reading of the minutes of the January meeting were laid over on motion to the March meeting.

On motion the following persons were duly elected to membership, on recommendation of the Executive Committee:

Proposed by Albert Bach, Esq.:

George Harrison McAdam, Esq., 119 Nassau Street, New York City; Henry Hardwicke, Esq., 120 Broadway, New York City; Arthur C. Butts, Esq., 206 Broadway, New York City; E. T. Taliaferro, Esq., 5 Beekman Street, New York City.

Proposed by Dr. George W. Grover:

Francis A. Utter, M. D., 103 West 71st Street, New York City.

Proposed by Dr. Thomas Darlington:

Judge John P. Schuchman, Judge of the City Court, 186 2nd Avenue, New York City.

Proposed by Clark Bell, Esq.:

Dr Santos Fernandez, Havana, Cuba; Dr. Agramonte, Havana, Cuba; Chief Justice Urbano Sanchez Hechavarria, Supreme Court of Santiago de Cuba, Santiago, Cuba; Alexandro Wos Y. Gil, Dominican Charge de Affairs, San of Domingo; Dr. Jose Lamanche, Justice Supreme Court, San Domingo.

Corresponding Members.

Proposed by Clark Bell, Esq.:

Judge Domingo A. Rodrigues, President of the Supreme Court, San Domingo, West Indies; Hon. Fernando A. de Marino, Ex-President San Domingo, West Indies; Archbishop San Domingo City, West Indies; Judge Eudaldo Tamayo, President de Sala, Supreme Court of Santiago, Cuba; Judge Jose Varela, Associate Justice Supreme Court, Santiago, Cuba; Judge Louis Gaston, Associate Justice Supreme Court, Santiago, Cuba; Judge M. J. Mandulay, Associate Justice Supreme Court, Santiago, Cuba; Hon. Alfredo Betancourt, Attorney-General of Supreme Court, Santiago, Cuba; Hon. Horatio Rogers, Associate Justice Supreme Court of Rhode Island, Providence, R. I.; William W. Douglass, Associate Justice Supreme Court, Providence, R. I.; Hon. Benjamin M. Bosworth, Associate Justice Rhode Island, Warren, R. I.; Hon. Charles M. Start, Chief Justice Supreme Court of Minnesota, Rochester, Minn.; Hon. William Mitchell, Associate Justice Supreme Court of Minnesota, Winona, Minn.; Hon. I. W. Collins, Associate Justice Supreme Court of Minnesota, St. Cloud, Minn.; Hon. Daniel Buck, Associate Justice Supreme

Court of Minnesata, Mankato, Minn.; Hon. Thomas Canty, Associate Justice Supreme Court of Minnesota, Minneapolis, Minn.; Manuel Lemorcha Garcia, Justice Supreme Court of San Domingo, West Indies; Natalio Regordo, Justice Supreme Court of San Domingo, West Indies; Rafael Roderiouez Montano, Attorney-General Supreme Court of San Domingo, West Indies; Avelino Vicioso, Secretary Supreme Court of San Domingo, West Indies.

The Secretary reported the following action of the Executive Committee in relation to the organization of branch Societies to this body in any state or county, under charter from this body, recommending the adoption of the following resolution:

On motion of Clark Bell, Esq., it was

Resolved, That the officers of the Society are hereby authorized and empowered to grant a charter to a Branch Society in any State or Territory of the American Union, or to any State or County, Province or Dependency, from this Society, on the application of any five members of this body, resident in any such State, Territory, County, Province or Dependency, for the organization of a Branch Society therein, under such form of organization as shall be formulated by the Executive Committee of this Society; That the Executive Officers of this Society be authorized to nominate and appoint one or more persons in such State, Territory, County, Province or Dependency, to promote the formation of such Branch Societies, to the Medico-Legal Society, who shall exercise such powers as shall be conferred upon him by the said appointment; That Senor Fidel G. Pierra, now at Havana, Cuba, be, and he hereby is, appointed a Commissioner for such purpose, for the provinces of the Island of Cuba, to act under the direction of the Executive Officers of this body, in the formation there of a Branch Society for Cuba.

On motion the resolution was unanimously adopted and the action approved.

T. D. Crothers, M. D., of Hartford, Conn., then read a paper entitled "Psychical Palsy."

It was discussed by Geo. W. Grover, M. D., Charles H. Shepard, M. D., Thos. Manley, M. D., Albert Bach, Esq., Mr. Clark Bell and others.

On motion the paper announced by Sophia McClelland for this evening was made the special order for March meeting, by reason of the absence of the author in Washington, D. C.

The Secretary submitted a resolution, adopted by the Executive Committee and recommended to the Society for discussion and adoption at this meeting, in relation to the question of Sex and the Death Penalty, as follows:

Resolved, As the sense of the Medico-Legal Society of New York, that the question of sex of the criminals convicted of homicide should be eliminated from the consideration of the Executive in the exercise of the pardoning power.

It was discussed by Dr. J. Mount Bleyer, Dr. Thos. Manley, Ida Trafford Bell, Mr. Agramonte, Dr. Wilder, Mr. Ashe and the President, in support of the motion, and by Dr. T. D. Crothers, Dr. C. H. Shepard and others opposed. Mr. Clark Bell closed the debate.

The resolution was unanimously adopted.

The paper by Clark Bell, Esq., on "The New Supreme Court at Santiago de Cuba," owing to the lateness of the hour, was read by title.

The Secretary announced the International Congress on "The Abuses of Alcoholic Beverages," to be held at Paris, France, in April, 1899, in which the Society had been invited to coöperate.

On motion, the Secretary, Dr. T. D. Crothers and Dr. Chas. H. Shepard were appointed as delegates to that Congress from this body, and the Secretary was authorized to name delegates to societies with which we are in relation and sympathy, until further action.

The Society then adjourned.

ALBERT BACH, President.
CLARK BELL, Secretary.

SEX IN PUNISHMENT FOR CRIME.

BY CLARK BELL, ESQUIRE.

Discussion of the Resolution* of Sex Discrimination by the Executive in the exercise of the pardoning power, before the Medico-Legal Society, March, 1899, was as follows;

It is a singular fact that whenever, in the recent past, there has been a conviction, in a capital case, of a woman, that there has been an agitation of the public mind in favor of a remission or commutation of the sentence, based on the question of sex.

We hear on all sides, not the lament that a woman has so far forgotten her duty as to commit the awful crime of murder, with all its horrible coloring of blood of an innocent victim, but a counter-cry "That it is against the civilization of the age to execute a woman."

We are not asked to think of the poor girl murdered, with details that shock us beyond expression; we are rather asked to throw a veil over that sorrowing spectacle and spare and prolong the life that has been forfeited to the state, in upholding our judicial system on which rests the security of the property as well as of the life of the citizen.

So far as I have been able to judge, this protest comes from two classes in the community:

1. Those who conscientiously oppose capital punishment for murder in the first degree, *i. e.*, in cold blood and with malice and forethought, and

2. Those who from some undefined and morbid sentiment take a deep interest in criminals, and to whom crime has a strange and fascinating interest.

It is useless to deny that a large portion of our citizens, not by any means a majority, strongly oppose capital punishment.

To them, the legal killing of the condemned, no matter how grave the crime, seems wrong and indefensible, and to many of

* *Resolved*, As the sense of the Medico-Legal Society of New York, that the question of sex of the criminals convicted of homicide should be eliminated from the consideration of the Executive in the exercise of the pardoning power.

these the judicial killing of a woman is more offensive than killing a man.

In all ages the sentence of death has followed the crime of murder.

It is only in the present century that mankind has been asked by any considerable number of persons to abolish the death penalty.

It has been tried in Switzerland, and in some of the American states, notably Wisconsin, and it is only truth to admit that, so far as experience has gone, it has been true that crime has not increased in those states where the trial has been made, and that, on the contrary, crime has apparently diminished. Still, only a small minority of people in civilized countries have consented to the abolition of capital punishment.

The resolution before us this evening has, however, not proposed any action on that score, but it is simply limited to opposition to any distinctions of sex, on the question of the exercise of the executive clemency, in a case of homicide, where the sentence of death has been pronounced.

When the whole volume of crime has been considered, homicides by women are rare, when compared with those committed by men.

No such distinction was ever made, *i. e.*, of sex, under the Mosaic law. Indeed I know of no race of people who have ever made a sex discrimination in cases of murder.

I can see no substantial reasons or grounds for such a distinction—such a discrimination. So far as I know, woman, as a sex, would oppose such a discrimination, such a distinction.

If the time ever came, in the history of the race, when the volume of crime, in its current, should indicate any increase of homicides by women, it might be well to consider the subject in the light of that aspect. That time has not come, nor has it ever existed in the history of the race.

Its consideration now is, it seems to me, unnecessary and premature.

I doubt if any one would be able to analyze the reason for such a distinction.

If punishment for crime is a deterrent, women should be entitled to the benefit of all the deterrent influence that punishment could afford ; and to deprive them of this deterrent effect against the commission of crime, would be an injustice.

The more we examine the theory of punishment as a deter-

rent, the more unsettled we become as to the truth of what has been hitherto conceded as an axiom.

The truth seems to be that punishment is in fact rarely a deterrent against the commission of crime.

Those who would allow a woman to escape the extreme penalty for murder, for example, by reason of her sex alone, would be unable to base it on any logical reason.

When traced back in every case that I have examined, the objector was opposed to capital punishment in any case whatever, so that sex was out of the question.

The Governor of our State, having taken the oath to enforce the laws, has no occasion or right to consider sex alone as a reason for a discrimination in the exercise of the pardoning power.

A governor who was conscientiously opposed to capital punishment could not, of course, without violation of his oath, interfere to stop the judgment of the law, so long as it was the law.

He could favor its repeal, but his oath to execute the laws would be violated if he refused to execute the laws because of his private views.

It would be hard for a Governor to see his son or his friend pay the penalty of crime under the law, but mere sympathy or affection would not release him from his oath to execute the law.

If woman has less strength to withstand temptation, or if in her physical construction she has stronger impulse to commit crime,—which is against the judgment or experience of all mankind,—if that period arrives, it will be time to consider it from that standpoint.

Women, when criminals, are perhaps not inferior to man in criminal instincts and action. The greatest poisoners of the world have been women.

Lucretia Borgia should not have been shielded by reason of sex, and could not be by any torture of the intellect.

Catherine de Medici gives no reason, in her life, why a woman should escape the punishment of her crimes.

Poison seems to have an especial fascination with women.

The Marquise de Brinvilliers removed with arsenic her father, two brothers, a sister and several other persons.

Mrs. Cotton, who was executed at Durham in 1873, was arraigned on four separate charges of poisoning by arsenic.

Mrs. Sherman, of New Haven, tried in 1885, used it successfully on three husbands and seven or eight children and step-children.

Mrs. Robinson, of Somerville, Mass., used it successfully on six members of her family.

Sir James Crichton Browne, in an admirable address before the students of the School of Pharmacy of the Pharmaceutical Society of Great Britain, on October 3, 1898, in speaking upon this aspect of crime, says:

I am sorry to have to say so, but it is true that women and doctors are the classes which have supplied the most numerous and notorious poisoners. Man—in this connection minus medical men—bold and militant, is disposed to crimes of violence; woman, weak and timid, when she stoops to crime, inclines to craft and cunning; and hence she has often sought, by the arrow that flieth in darkness, to remove a rival, resent infidelity, avenge her wrongs, hide her shame, or gratify her cupidity. At certain periods, poisoning by women has been epidemic, and has anticipated the decrees of our modern divorce court. About the middle of the seventeenth century it was observed that young widows were extraordinarily abundant in Rome, and that most of the unhappy marriages were speedily dissolved by the illness and death of the husband; and inquiries set on foot by the Catholic clergy, who felt bound to make representations to Pope Alexander VII, resulted in the discovery of a secret society of young matrons, who met at the house of a reputed sorceress for technical instruction in toxicology and mutual improvement in marital euthanasia. A little later a similar organization was brought to light in Paris, again by the action of the clergy, and here it was shown that under the guidance of two nominal midwives, La Voisin and La Vigoroux, large numbers of married women had hastened the decease of their husbands. It was not until upwards of a hundred culprits of this description had died at the stake or on the gallows that this epidemic ended. In Hungary, in the latter half of the seventeenth century, and again only a few years ago, extraordinary disclosures were made as to wholesale husband poisoning by women of the peasant class, who, like the Roman and Parisian matrons, employed arsenic to compass their ends.

We can understand in some measure the partiality of female poisoners, acting individually or in numbers, for arsenic, and their rigorous adherence to ancient methods, by remembering that arsenic has been long employed in many countries as the most popular domestic exterminator of vermin, and has also been extensively recognized as an article of toilette, so that they have been able to obtain it and explain their possession of it on these pretexts.

Indeed, in some classes of crime, women become the more accomplished, resolute and energetic, in the commission of crime.

Shakespeare feels and shares this, when in the final scene, she who is all the while the prime criminal, disgusted at the craven cowardice of her lover, says: "Infirm of purpose give me the daggers."

MEDICO-LEGAL SURGERY.

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To Railway Surgeons and Railway Counsel:

We take occasion to advise you to unite with the Section of Medico-Legal Surgery, which can now be done by an annual subscription of $1.50, entitling each member to the *Medico-Legal Journal* free.

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Members of the Section on Medical-Legal Surgery who have not remitted their annual subscription to the Section, will please send same to Judge Wm. H. Francis, No. 39 Broadway, N. Y., and members will please not confound the Section Dues with the Annual Dues of the Society, which should be remitted to Dr. Thomas Darlington, Treasurer, Kingsbridge, New York City, or to the Secretaries Members of the Society or Section will please propose names for membership in this Section.

It is proposed that members of the Society and Section each donate one bound volume annually to the Library of the Medico-Legal Society, by action of the Executive Committee.

SECTION ON MEDICO-LEGAL SURGERY—MEDICO-LEGAL SOCIETY.

ANNUAL REPORT—JANUARY 1, 1899.

TO THE FELLOWS OF THE SECTION OF MEDICO-LEGAL SURGERY AND OF THE MEDICO-LEGAL SOCIETY:

The domain and province of the Section is defined by the following standing resolution:

Resolved, That all questions in medico-legal surgery are to be deemed within the scope and province of the Section on Railway Surgery, including, especially, military and naval surgery, and the broad domain of surgery in its relation to medical jurisprudence.

The Section is intended to embrace, besides naval, military and railway surgeons and counsel, railway managers, railway officials, whether lawyers or surgeons; many of whom have already united with the body, and who are eligible to membership under the statutes of the Society.

Three members of the Executive Committee constitute a quorum, and five of the Board of Officers of the Section.

The work of the Section during the preceding year has been devoted to the advancement of the science of the medical jurisprudence of surgery in all of its branches. The papers contributed upon these branches of science have been in part published in the Medico-Legal Journal, which is the official organ of the Section, except those contributed to the Medico-Legal Congress of September, 1895, which appeared in the Bulletin of the Congress.

The following is a *resume* of the work of the Section during the year:

"Traumatic Neurasthenia." By Prof. W. J. Herdman, M. D,, of Ann Arbor.

"The X-Ray and Electric Sterilization in Surgery." By J. Mount Bleyer, M. D.

"Medico-Legal Questions in Personal Injury Cases." By Clarence A. Lightner, Esq., of Detroit.

"The X-Ray in Forensic Medicine." By Frank W. Ross, M. D., Surgeon U. S. A.

"A Case of Rupture Aortic Aneurism in Accident Insurance Case." By Surgeon J. N. Hall, M. D., of Denver.

"Progress of Medico-Legal Surgery." By Clark Bell, Esq.; by Nicholas Senn, Surgeon Gen. of Ill., Lt. Col. U. S. V., of Chicago; by J. N. Hall, M. D., of Denver; by J. Mount Bleyer, M. D., of N. Y.; by G. P. Conn, M. D., of Concord, N. H.

"The Hospital Service in the Army." By Frank W. Ross, M. D., Army Surgeon.

"Discrimination and Compensation as to the Medical Conduct of the War." By Geo. W. Grover, M. D.

"The Conduct of the Santiago Campaign from a Medical Standpoint." By Surgeon Geo. Goodfellow, M. D., of General Shafter's staff.

"The Santiago Campaign from a Medical Standpoint." By Clark Bell, Esq.

The same subject. By F. Medina Ferrer, Surgeon U. S. Volunteers.

The same subject. By Surgeon V. Havard, Chief Surgeon 5th Army Corps.

Same subject:

Views of Dr. Thos. Darlington, of N. Y.; views of Judge A. H. Dailey, of N. Y.; views of S. B. W. McLeod, M. D. of N. Y.; views of Dr. Robert S Gunn, of N. Y.; views of H. Gerard Chapin, Esq., of N. Y.

"Responsibility for Accidental Injuries." Action Med. Leg. Soc. of France.

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Chief Sur. Chas. K. Cole, M. D., of Helena, Mon.
Surgeon Martin Cavana, of Oneida, N. Y.
Col. E. Chancellor, M. D., of Missouri.
Surgeon James H. Calvin, M. D., of Huron, O.
Chief Surgeon Chas. H. Cadwell (Plant System), Way Cross, Ga.
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Surgeon R. Percey Crookshank, M. D., Rapid City, Manitoba.
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Surgeon L. C. Hicks, M. D., Burlington, Wis.
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Surgeon W. H. Monday, Terrell, Texas.
Surgeons McCloud and Hodges, High Spring, Fla.
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Nelson W. Wilson, M. D., 53 7th St., Buffalo, N. Y.
Judge Allen Zollars, Solicitor P. R. R., Fort Wayne, Ind.

Respectfully submitted,

CLARK BELL, Vice Chairman and Sec'y.

NOTE.—The officers recommended by the Committee, were duly elected by the Medico-Legal Society at January Meeting, 1899.

THE INTERNATIONAL ASSOCIATION OF RAILWAY SURGEONS.

The annual meeting of this body will be held at Richmond, Va., on May 31, June 1 and 2, 1899.

Dr. C. W. Brock has been chosen Chairman of the Committee of arrangements. Dr. W. D. Middleton, of Davenport, Iowa, Chief Surgeon C., R. I. & Pac. R. R., is Chairman of Committee on Transportation.

It is contemplated that "Burns and Scalds" will be one of the leading features of the meeting, to which many prominent members will contribute. No program has been announced in time for notice in our columns.

Dr. Bruce L. Riordan, of Toronto, Ontario, is the President; Ex-President F. J. Lutz, of St. Louis, is Chairman of the Executive Committee, with Chief Surgeon W. B. Outten, St. Louis; J. B. Murphy, M. D., Chicago; J. B. Letcher, M. D., of Henderson, Ky.; H. L. Getz, of Marshaltown, Iowa; J. Alex. Hutchinson. M. D., of Montreal, and the Executive Officers.

An interesting meeting and large attendance is predicted.

THE BIG FOUR R. R. CO.

We learn with great pleasure that Dr. J. H. Ford, President of the Indiana State Medical Society, has been appointed Chief Surgeon of the entire Big Four System, and in charge of its main Hospital.

We believe that Dr. Ford will, through this position, be able to take a still more prominent position in railway surgery, for which he is fitted, and to which his tastes incline. He will doubtless remove to Indianapolis.

ANTI-VACCINATION IN ENGLAND.

The new law in England develops an enormous public senti-

ment there against vaccination, and shows an unusually large portion of the community opposed to it.

Justice Wm. Hardman, M. B., J. P. of Blackpool, in a card to the British Medical Journal of December 17, 1898, states that, "In one Yorkshire town, 17,000 certificates of exemption have been granted, and in many others the state of things is similar."

He says, "When I am on the bench I never take the trouble to inquire what are the grounds of objection. It is a waste of time."

He adds as a postscript to his letter, that "The number of certificates granted of exemption from vaccination, in Oldham, was 34,000 last Monday."

Enforced vaccination in England, under the existing law, would seem to be quite impossible.

PSYCHOLOGICAL.

This Department is conducted with the following Associate Editors:

Judge Abram H. Dailey, Brooklyn. N. Y.
Prof. A. A. D'Ancona, San Francisco, Cal.
H. S. Drayton, M. D., N. Y.
M. Ellinger, Esq., N. Y. City.
Dr. Havelock Ellis, London.
Thomson Jay Hudson, Esq., Wash., D. C.
Henry Hulst, M. D., Grand Rapids, Mich.
R. J. Nunn, M. D., Savannah, Ga.
A. E. Osborne, M. D., Cal.
Jas. T. Searcey, M. D., Tuscaloosa, Ala.
U. O. B. Wingate, M. D., Milwaukee, Wis.
Prof. W. Xavier Sudduth, Chicago, Ill.
Wm. Lee Howard, M. D., Baltimore, Md.

as the organ of the Psychological Section.

The Psychological Section of the Medico-Legal Society has been organized, to which any member, Active, Corresponding or Honorary, is eligible on payment of an annual enrollment fee or dues of $1 50.

Any student of Psychological Science is eligible to unite with the Section without joining the Medico-Legal Society on an annual subscription of $1 50, payable in advance and receive the MEDICO-LEGAL JOURNAL free. The officers for 1899 are as follows:

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PROF. W. XAVIER SUDDUTH, OF CHICAGO, ILL.

LEGAL AND SCIENTIFIC.

Vice-Chairmen,

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Rev. Antoinette B. Blackwell, of N. Y.
Harold Browett, Esq., Shanghai, China.
C. Van D. Chenoweth, Worcester, Mass.
Judge Abram H. Dailey, of Brooklyn.
Moritz Ellinger, Esq., of New York.
Rev. Phebe A. Hanaford, of New York.
Thomson Jay Hudson, Esq., Wash'n, D. C.
Sophia McClelland, of New York
Mrs. Jacob F. Miller, of New York.

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James R. Cocke, M. D., of Boston, Mass.
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Henry Hulst, M. D., Grand Rapids, Mich.
Prof. Thomas Bassett Keyes, of Chicago.
R. J. Nunn, M. D., of Savannah, Ga.
A. E. Osborne, M. D., of Glen Ellen, Cal.
Jas. T. Searcy, M. D., of Tuscaloosa, Ala.
U. O. B. Wingate, M. D., Milwaukee, Wis.

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CLARK BELL, ESQ., Chairman.

CAROLINE J. TAYLOR, Secretary.

M. Ellinger, Esq.
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Judge A. H. Dailey.
Ida Trafford Bell.
Geo. W. Grover, M. D.
H. W. Mitchell, M. D.

The following persons have united with the Psychological Section since last announcement:

Dr. Helen Densmore, Brooklyn, N. Y.; Col. Fred. Hamilton, 38 Bridge St., Brooklyn; Chas. Teubner, 3267 21st St., San Francisco, Cal.; Dr. J. H. Yarnell, 3028 P St. Washington, D. C., N. W.; Judge John A. Vance, Gouveneur, N. Y.; C. J. John H. Burford, Oklahoma City, Oklahoma; Chas. W. Kimball, Esq., District Attorney, Penn Yan, N. Y.; Dr. Robt. Sheerin, Cleveland, Ohio; Prof. John W. Farr, Jr., A. M., LL. B., Chattanooga, Tenn.; Dr. Sam'l S. Buckley, College Park, Prince George Co., Md.; Mrs Laura Dayton Fessenden, Happy Go Lucky Park, Ill.

PSYCHOLOGICAL SECTION OF THE MEDICO-LEGAL SOCIETY.

ANNUAL REPORT, JANUARY 1, 1899.

To the Fellows of the Psychological Section and of the Medico Legal Society:

The work of the Section for the year, since the last Annual Report, may be summarized as follows:

The following papers, addresses and articles have been contributed to the Section during the year 1898:

"The Etiology and Treatment of Criminality." By Danl. R. Brower, A. M., M. D., of Chicago.

"The Brummer Case." By Edwin J. Bartlett, M. D.

"Criminality and Degeneracy; Treatment by Surgery and Hypnotism." By Prof. Thos. Bassett Keyes, M. D., of Chicago.

"Wireless Telegraphy and Telepathy." By H. S. Drayton, M. D., of New York.

"Psychometry." By Judge A. H. Dailey, of Brooklyn, N. Y.

"Treatment of Male Hysteria by Suggestion." By H. S. Drayton, M. D., of N. Y.

"Consciousness and its Helpers." By Rev. Antoinette Brown Blackwell.

"The Cigarette; Does it Cause Insanity." By Clark Bell, Esq.

"Palmistry." By W. H. French, Esq.

Opinions of a large number of Alienists on the Cigarette as a Cause of Insanity.

The Laws of Many States Regulating and Punishing the Sale of the Cigarettes.

"The True Duty of the District Attorney." By Col. Asa Bird Gardiner, District Attorney of N. Y.

The same subject By Clark Bell, Esq.

"Premature Burial." By H. Gerald Chapin, Esq.

Same subject. By Chas. J. Garrigues, M. D.

"International Leper Legislation." By A. S. Ashmead, M. D., of N. Y.

Same subject. By Isidore Dyer, M. D.

"Medical Expert Testimony." By J. B. Ransom, M. D., Physician of Clinton Prison.

"Auto-Hypnotism—Self-Suggestion and Fixed Ideas." By Carl Sextus.

"Alternating Personalities." By H. S. Drayton, M. D., of N. Y.

"Psychological Studies of Criminals." By Geo. W. Grover, M.D.

"Feigned Diseases; their Purpose and Recognition." By J. Adelphi Gottlieb, M. D., of N. Y.

"The Right to Commit Suicide." By Gustav Boehm, of N. Y.

"The Brutality of Capital Punishment." By Gustav Boehm, Esq., of N. Y.

"Medical Evidence in Criminal Cases." By W. H. S. Monck, Esq., of Dublin.

"Sub-Liminal Consciousness." By W. H. S. Monck, Esq., of the Dublin Bar.

"Aphasia and Testamentary Capacity." By Sir Wm. T. Gardiner, of Glasgow.

"Criminal Responsibility of the Insane—Right and Wrong Test—Punishment of the Insane." Views of Dr. Chas. A. Mercier, M. B., M. R. C. P. London, and his critics.

"Hypnotism." Views of Dr. J. Milne Bramwell, London; Fred. W. H. Myers, of London; David Yellowlees, Glasgow; M. Benedict, of Vienna; John E. Woods, of London; Chas. A. Mercier, of London; John Haddon, Harwich, Eng.

"Suicide." Views of John Sibbald, M. D., Com. in Lunacy for Scotland; Alexander Haig, M. A. M. D.; Dr. John McPherson, Edinburgh; G. Fielding Blanford, M. D., London; M. Benedict, of Vienna; David Yellowlees, Glasgow; A. R. Urquhart, M. D., of Perth; John Macpherson, M. D., of Larbert, Scotland; Charles Mercier, of London; David Nicholson, M. D., of London; H. Hayes Newington, M. D., of Ticehart, Eng.; John F. Sibbald, M. D., Com. of Lunacy for Scotland.

"The Insanity of Inebriety." Views of J. F. Sutherland, M. D., Deputy Com. in Lunacy for Scotland.

"The Right and Wrong Test in Cases of Homicides by the Insane." By Clark Bell, Esq.; also the same subject by the late Charles Doe, Chief Justice Supreme Court of N. H.

"The Insane Criminal." By J. B. Ransom, M. D. Views of Clark Bell, Esq.

"Immorality on the Judicial Bench." By T. Crisp Poole, Esq., of Brisbane, Queensland.

"Instant Death by Decapitation an Impossibility by Biological Analysis." By J. Mount Bleyer, M. D., of N. Y.

"Criminal Treatment of the Insane." By W. H. S. Monck, Esq., of the Dublin Bar.

The following subjects are within the Domain of Studies pursued by the Section:

1. The Medical Jurisprudence of Insanity.
2. Inebriety, Heredity and Sociology.
3. Criminality and Criminal Anthropology.
4. Mental Suggestion, and especially of Physicians as to Clinical Suggestion and Therapeutic Hypnosis.
. Experimental Psychology.
7. Clairvoyance.
8. Facts within the Domain of Psychical Research, including investigation into so-called Modern Spiritualism.

The Officers of the Section recommended for election for 1899 are as follows:

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PROF. W. XAVIER SUDDUTH, OF CHICAGO, ILL.

LEGAL AND SCIENTIFIC.

Vice-Chairmen,

Clark Bell, Esq., of New York.
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Harold Browett, Esq., Shanghai, China.
C. Van D. Chenoweth, Worcester, Mass.
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Moritz Ellinger, Esq. of New York.
Rev. Phebe A. Hana ord, of New York.
Thomson Jay Hudson, Esq., Wash'n, D. C.
Sophia McClelland, of New York.
Mrs. Jacob F. Miller, of New York.

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Vice-Chairmen.

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F. E. Daniel. M. D., of Austin. Texas.
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Wm. Lee Howard, M. D., of Baltimore, Md.
Henry Hulst, M. D., Grand Rapids, Mich.
Prof. Thomas Bassett Keyes, of Chicago.
R. J. Nunn, M D., of Savannah, Ga.
A. E. Osborne, M. D , of Glen Ellen, Cal.
Jas. T. Searcy, M. D , of Tuscaloosa, Ala.
U. O. B. Wingate, M. D., Milwaukee, Wis.

Mrs. Mary Louise Thomas, of New York.

Secretary and Treasurer,

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S. B. W. McLeod, M. D. — Ida Trafford Bell. — H. W. Mitchell, M. D.

The Standing Committees recommended for 1899 are as follows:

TELEPATHY, MODERN SPIRITUALISM, &C.—Judge Abram H. Dailey, Brooklyn, N. Y., Chairman; Thomson Jay Hudson, Esq., Washington, D. C.; Sophia McClelland, New York; R. J. Nunn, M. D., of Savannah, Ga.; C. Van D. Chenoweth, Shrewsbury, Mass.; Ursula N. Gesterfield, of Chicago, Ill.

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MORBID PSYCHOLOGY.—E. Sanger Browne, M. D., Chicago, Illinois; William Lee Howard, M. D., Baltimore, Md.; T. D. Crothers, M. D., Hartford, Conn.; Prof. C. H. Hughes, of St. Louis, Mo.; Carleton Simon, M. D., of N. Y.

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PSYCHO-THERAPEUTICS.—Prof. A. A. d'Ancona, Chairman, San Francisco, Cal.; Henry Hultz, M. D., Grand Rapids, Mich.; Henry S. Drayton, M. D.,N. Y. City.

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Every member of the Society is eligible to membership in the Section, as also the wives of members of the Society.

The annual Dues of the Section are $1.50, entitling the members to the Medico-Legal Journal free.

The Section is open to all Students of Psychological Science.

The following is the Roll of Members of the Section:

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Mary Randal Downs, Danbury, Conn.
Isidore Dyer, M. D., Tulane University, New Orleans, La.
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January 1, 1899. Respectfully submitted,

CLARK BELL,

Vice-Chairman and Secretary.

NOTE:—The officers recommended by the report were duly elected by the Executive Committee at January meeting, 1899.

CORPORAL PUNISHMENT FOR CRIME.

The Psychological Section of the Medico-Legal Society will meet in joint session with the Society, on the 3d Wednesday of May next.

The above title will be made the subject of a paper by the Hon. Simeon E. Baldwin, LL. D., Justice of the Supreme Court of Connecticut, and Ex-President of the American Bar Association.

Members of the Society or Section, who desire to take part in the discussion of the subject, will send their names and addresses to the Secretary.

Papers or contributions on subjects within the domain of this Section are solicited from members and others. The titles of papers and names of authors can be sent to the Secretary, Mr. Clark Bell.

THE CRIMINAL TREATMENT OF THE INSANE.

BY W. H. S. MONCK, BARRISTER AT LAW, DUBLIN, IRELAND.

It would be difficult to imagine a more unsatisfactory state of the law than that which at present exists in England as regards injuries committed by the insane. Many persons think that there is an irreconcilable difference between the judges and the doctors as to what constitutes insanity. If so, the public should have as little doubt in arriving at its own conclusions as if the dispute related to small-pox or scarlatina. But the judges do not, in fact, propose to define insanity. They rather lay down that some men ought to be punished, although insane from the medical point of view, while others ought not to be punished at all, owing to their mental condition. The dispute is thus transferred from the sphere of medical science to that of morals, and, as a rule, neither disputant is a moralist.

There is no Court of Criminal Appeal in England. Every judge lays down his own views as to the law at a criminal trial. The jury is supposed to be bound to adopt these views. They can often disregard them with impunity. If the judge is wrong in his law, and the jury follows his direction, the prisoner has (as a rule) no remedy. The Home Secretary may pardon him or he may not, and his pardons or remissions do not seem to proceed on any fixed principle. In one case, however,—that of MacNaughten,—a number of judges were consulted on this question of insanity, and their opinions are still cited by many judges as law, while others refuse to recognize them as such. The opinions were not pronounced in open court after argument, nor was the Home Secretary bound to act in accordance with them. At present the prisoner has to take the chance of being tried by a MacNaughtenite or a non-MacNaughtenite judge; and if the judge's direction is wrong, neither he nor the Crown can appeal. So one man is convicted, while another,

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under precisely similar circumstances, is acquitted on the ground of insanity.

The judges in MacNaughten's case, which occurred more than half a century ago, seem to have proceeded on the assumption that every man who deserved punishment ought to be punished, and that every man who knew that he was doing wrong deserved to be punished. It was of no consequence whether he was sane or insane. If he knew what he was doing and knew that it was wrong, he was a criminal and ought to be punished as such. If it had occurred to the judges that the object of the law was not to punish every man who deserved punishment—to give scope, in fact, to the passion of retaliation or revenge, which is the source of so many crimes—but to protect the persons and properties of the subjects of the State, they would probably have come to the conclusion that there was no necessity for inflicting any other punishment than detention in a lunatic asylum on any insane prisoner. The punishment of a madman as a criminal is not likely to reform him or to have much deterrent effect, either on the sane or on the insane.

Admitting, however, for the sake of argument, that some madmen deserve to be punished, and that it is therefore the duty of the State to punish them, it seems to me that the judges' notions of ill-desert are often of the vaguest character and that the tests which they adopt at criminal trials are often misleading; and, be it noted that in the absence of a Court of Criminal Appeal, an English judge can (as a rule) tell the jury that anything whatever is law, without any risk of reversal. The tests of punishable insanity usually adopted are the following:

1. Did the person know what he was doing? 2. Did he know that it was wrong?

Not to enlarge on the vagueness of these questions, I fail to find in them any distinction between the crimes of manslaughter and murder; and, as a matter of fact, I do not recollect any instance in which an insane person, tried before a MacNaughtenite judge, was convicted of manslaughter. What would be manslaughter in the case of a sane person, is often treated as murder in that of a lunatic. Yet many persons will think that only a sane man can be guilty of "malice aforethought" in the full signification of the terms, and in one recent instance this seems to have deen laid down by the presiding judge. The result was a verdict of manslaughter—a very unusual result

where the prisoner is insane or weak-minded, though the jury can always return this verdict on a trial for murder.

Moreover, accepting the above tests, the evidence that the prisoner knew that he was doing wrong seems to me to be often very defective. The judge was not a moralist and his notions of right and wrong as already noticed are often somewhat hazy. Indeed the test commonly used to ascertain whether a child understands the nature of an oath is whether it knows that it will go to hell if it tells a lie. How many adult witnesses could truly state that they believed they would go to hell if they swore what was false? And I think very few theologians will be found to maintain that perjury is an unpardonable sin. The proof that the prisoner knew that he was doing wrong seems usually to be that he expected to be punished—to suffer pain—if found out. He practiced concealment about the affair. Wha does that prove? Would not the Judge conceal himself if he went deer-stalking or engaged in some other forms of sport? Where concealment is necessary in order to effect his object, a man will usually practice it whether that object is right or wrong. Or again without concealment there may be danger in effecting the object in question—for example in shooting a lion or tiger. After the action, concealment proves nothing more than that the prisoner expected some ill consequence to arise from openness and frankness. A dog will sometimes practice concealment if he expects to be beaten. Does that prove that he knows the action to be wrong? Doctors I am afraid are sometimes as hazy on this subject as the expounders of the law. It seems to me that the only rational course is to abandon the distinction between punishable and unpunishable insanity, and to lay down in general terms that if a man is a fit subject for confinement in a Lunatic Asylum, he is not a fit subject for punishment under the Criminal Law. The question to be considered by the jury would thus become one of the medical and other evidences as to insanity in the ordinary meaning of the term. The fewer refinements our Judges introduce in such matters the better. The question submitted to juries should be couched in plain terms taken in the ordinary meaning.

However when a prisoner is convicted, the Home Secretary is empowered to direct him to be removed to a Lunatic Asylum on the usual medical certificate *unless he is under sentence of death.* The humane legislators who objected to punishing a madman by imprisonment or penal servitude had no objection

to hanging him in any case where a MacNaughtenite Judge had succeeded in procuring a conviction for murder! But, happily for the interests of justice, it is usually possible (as Daniel O'Connell said) to drive a coach-and-six through an English Statute. The Home Secretary *first* commutes the death sentence to penal servitude for life, and *then* sends the madman to a Lunatic Asylum on a medical certificate. Consequently very few madmen are hanged, though I believe a few are so. The doctor in giving his certificate of course uses the term insanity in the medical not the judicial sense, and the Home Secretary acts on the certificate. But whether a man is insane in the medical sense or not, is often a question open to considerable doubt. It is plainly one on which doctors should be examined and cross-examined in public, and in case of a conflict of testimony the jury should decide the question as they would do in a civil action. But unfortunately this is hardly ever the question that is submitted to an English jury in a criminal case. It is afterwards decided by the Home Secretary on a certificate not tested by cross-examination and I believe un-sworn; and sometimes the persons interested cannot even find out the name of the doctor who signed it. All these inconveniences arise from the judicial theory of punishable insanity which is almost always set aside when the matter is referred to the Home Secretary. Before then, however, there is a trial often lasting for several days, causing much expense both to the State and to the friends of the prisoner as well as inconvenience to jury, and probably prejudicing the prisoner's prospects of recovery—the net result of the whole proceeding being *nil*.

Latterly indeed the English law has permitted a verdict of "Guilty but Insane" with the result that the prisoner is sent to a Lunatic Asylum. But this statute is rendered almost nugatory by a provision that the term "insane" is to be used in the same sense as before. On a trial for murder, according to the view of a MacNaughtenite Judge, a verdict of "Guilty but Insane" is self-contradictory. If the prisoner "wilfully, feloniously and of his malice aforethought" killed another man, he is not insane in the legal use of the term; and if the killing was not wilful, malicious and of his malice aforethought, he is not guilty at all. Thus if guilty, he is not insane, and if insane he is not guilty. Nevertheless this verdict has sometimes been returned and acted on.

I think the great majority of the intelligent public will be of opinion that a lunatic ought not to be punished as a criminal but merely sent to a Lunatic Asylum; and this, as I have pointed out, is really the practice in England at present though most of the Judges strain a point to have the lunatic *sentenced* as a criminal, well knows that the sentence will not be carried out and probably not deserving that it should be. The grand defect of the present system is that the question whether the man is or is not a lunatic is not submitted to the jury and a decision given in open court after a public examination and cross-examination of the witnesses, but that is left to a secret and irresponsible tribunal which has not before it either the same amount of evidence or the same means of testing the evidence that a jury would have, while the verdict may be that of a single man who entertains strong views on the subject of insanity, but cannot be called to account by the public owing to the secrecy of the procedure. The doctors have substantially won a victory over the judges and no reasonable man will doubt that they deserved to win it. But they have won their victory by a process which withdraws the decision from the proper tribunal and leaves the question of insanity (in the medical sense) to be dealt with by persons who possess no qualifications for the task and are not fully supplied with the requisite information. Indeed there is probably no more clumsy and inefficient appellate tribunal in the whole civilized world than the English Home Office. But its confidence in the correctness of its own decisions and its unwillingness to alter them seems to be in inverse proportion to its qualifications for arriving at a correct result.

I would not of course exclude evidence to prove that the prisoner knew what he was doing and knew that it was wrong. Evidence to this effect would undoubtedly tend to prove his sanity on the occasion in question. But it might be rebutted by other evidence of an opposite tendency, and the only question that ought, in my opinion, to be submitted to the jury is whether upon the evidence taken as a whole the prisoner was sane or insane. I admit that there are cases in which this question is one of great difficulty, but it is always a question of fact which comes distinctly within the province of the jury. Suppose a man in typhus fever dashed out the brains of his nurse, would any intelligent jury listen to evidence tendered to prove that though delirious at the time he knew what he was

doing and knew that it was wrong? But not very long since we had one patient at a Lunatic Asylum brought before the magistrates on the charge of murdering another inmate and gravely committed to prison to stand his trial for that offence—of which under a MacNaughtenite Judge he might not impossibly have been convicted. The persons who should have been in the dock were those who gave one lunatic an opportunity of killing the other—at least if they knew that his insanity was of the homicidal form. I am not sure whether the presumption of sanity on which some English judges rely so strongly, would be extended to a man who was an inmate of a lunatic asylum at the time when the alleged offence was committed. No doubt sane people are much more numerous than insane—as innocent persons are much more numerous than criminals—but a man's history and that of his family may completely rebut the presumption arising from this fact. Reasonable doubt as to a man's sanity should be treated like reasonable doubt on other points of the case. The nearest approach to the defence of insanity is the defence of accident. A shoots B and kills him. If he either did the act by accident or when insane, he did not kill him "wilfully, feloniously and of his malice aforethought"—apart from any refinements which judges have succeeded in grafting upon English words which seem to me to be sufficiently clear, plain and definite in their meaning, and which I am certain were not employed by those who first introduced them, in the sense that some judges now command the jurors to attach to them. Were I a juror I would disobey the command. The judge may be bound to state the law to the jurors, but when he wanders outside of the terms of the statute and interprets plain words in an unnatural sense because other judges have done so before him, I would disregard his statements altogether. If the statutes meant the jurors to understand their words in an unnatural sense, I suppose they would have said so and not left it to the judges to find out that they did not mean what they said.

These remarks extend beyond the subject of insanity. Judges have twisted and strained the words "malice aforethought" in every possible way, in the interests of the hangman; and most of them then step in to deprive the latter of his fee, and induce the Home Secretary to commute the sentence that would never have been passed but for their desperate efforts to obtain a capital conviction for murder from an unwilling jury. Routine

red-tape and precedent are as potent among the English judges as at the English Home Office. Both seem to me to resemble a fat sheep that can succeed in getting on its back, but cannot get up until some one passes by and sets it on its legs again. This some one, in England, is the legislature. The judges have never, I think, rectified a blunder which the majority of them knew to be a blunder, by General Rule or Order to the effect that for the future a different course would be adopted. Indeed I believe that nothing but such a General Rule or Order is required in order to enable appeals to be brought in criminal as well as civil cases. There is no statute, that I know of, which prevents the High Court of Justice, in England and Ireland, from hearing criminal appeals to-morrow, if it chose to do so, and such appeals have actually been heard in the past, though in recent years they have fallen into disuse, to the great detriment of innocent convicts, whether sane or insane, who hardly ever receive full justice from the Home Office.

DOUBLE PERSONALITY.

BY WILLIAM LEE HOWARD, M. D., BALTIMORE, MD

Under this rather ambiguous title I shall give a few psychological facts consistent with modern psychologic knowledge. I use the expression "ambiguous title" because the following paper does not emanate from a metaphysical view-point; because it avoids any recognition of the universal postulate of Spencer, and takes no present cognizance of the dynamics of consciousness as explained by Hume, or of the jumble of metaphysics, psychology, physiology and gullibility now prominent in many pseudo-scientific societies.

Many of the provisional hypotheses put forward by the philosophers to explain the phenomena of double consciousness and multiple personalities make the result of physiology involve subjective data. This attitude and method of reasoning only raises perplexing metaphysical questions as to the substantive or dynamic nature of mind. Such purely metaphysical hypotheses must be very carefully differentiated from what we can with fairness accept as postulates pertaining to the departments of physiology and psychology. As Hyslop says: "In the study of medicine there is a preponderance of the somatic element, and little or no regard is paid to the psychic element." According to Hartmann, the reason of this neglect is to be found in the fact that philosophers by profession are not necessarily physiologists, and, on the other hand, that physiologists are seldom enough philosophers to handle their subject successfully. However, I believe that the physiologists are more inclined today to rational philosophical reasoning than are philosophers to physiological investigation.

I believe all phenomena to be natural phenomena, and hence explainable by natural methods of observation and induction. While some phenomena are at present unexplainable, yet there is a daily increase in our knowledge, in our application of that knowledge, and a vast improvement in the development of

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human individuality, all of which argues for a clearer understanding of these phenomena in the future. I think I may state without the fear of contradiction, that today the referring of any unexplainable phenomena to supernatural cause belongs to a class outside of the medical and allied scientific circles.

Perhaps a title that would better explain my subject tonight would be "Morbid States Altering the Normal Personality." But even this is misleading to those unacquainted with physiological psychology, as it conveys an impression of a distinct pathological state altering the normal brain—a condition seen daily by the medical practitioner, and foreign to our meaning. The medical practitioner must remember that the modern physiological psychologist is an investigator of mental or psychical diseases, in contradistinction to cerebral diseases without psychic disturbance or manifestations.

In this paper I refer to a condition in which there is a displacement of the ego, by which the I which perceives the abnormal is not the I which was wont to perceive the normal. This state must not be confused with a condition of disordered or disturbed consciousness found after traumatism to the head, certain amnesic states following fevers, etc.

Carpenter, Bastian, and even Binet, all blundered in attempting to separate the subconscious state from states of disturbed consciousness arising from mental confusion. Fortunately, with the advances in physiology and neuropathology such blunders are avoidable at the present day.

One point in which the state of second personality differs from the insane state is to be found in the fact that in the former a large part of the memory, or all of it, is blotted out, and the mind is unable to compare present facts with the experience of the past, whilst in the insane the memory of remote events is often unimpaired.

In speaking of double personality I refer to a psychic condition which dissociates the elements of the mind and then combines them into a distinct, separate and strange personality. During this state the individual has no recognition of his normal state. He bears a different name, has another occupation, perhaps resides in a distant town from his own, acts rationally, and is fairly successful in his new vocation. He suddenly returns to his primary self, and goes back to home and business. During the period of time he is another individual, another personality; a period which may last for weeks or years, he

has no consciousness of the existence of his normal body, or, rather, no lucid consciousness belonging to that body. Under such conditions an individual has a perfect dual existence, so far as continuity of conscious events is concerned. These cases are not as uncommon as persons unfamiliar with morbid states would imagine. I could entertain you during the time allotted to me this evening with recorded histories of "people who drop out of sight," but one case, coming under my observation, will give us a basis for study of these interesting and perplexing alternating personalities.

The instances of alternating personalities may be divided into two groups, according as the alternation is complete or incomplete. But tonight I shall only refer to the complete alternation and to the dual form, the incomplete and multiple forms to be referred to at a later date.

Mr. B., a respected business man; married, and the father of three children. His position caused him to travel extensively in America—from the Pacific to the Atlantic oceans; from the Gulf of Mexico to Hudson Bay. About ten years ago he commenced to go away from home without giving any definite statement of where he was going or when he would return. Upon his return he would not, or could not, give any direct answer as to where he had been. On these occasions he appeared slightly dazed in memory and intellect, and his appearance was that of a man who had aged greatly from want of sleep. Two years ago, in the month of October, he disappeared and no trace of him could be found until he returned home on January 14. A man who knew him in his own city found him a month prior to this date conducting a country cross roads store on the upper Potomac. He carried on business under the name of Simpson, and had been known under that name since he had been in the village. He did not know his former acquaintance, and the repeated mentioning of his true name, "Mr. B.," he at first took as a joke, then became indignant, and was so positive in stating he was Simpson, giving his past history, stating he was from Oregon, and going into full and complete details of his life and business in that State, that the former friend went away fully convinced of his mistaken identity.

One peculiarity Simpson, as we must now call him, had, was his passion for fishing, giving, as one excuse why he had chosen to settle in the little village, the good bass fishing he could enjoy in the river. On the morning of January 14 he appeared at his

own house to the surprise and joy of his family. He was Mr. B. again, but no question as to his past whereabouts could he answer. Only when he became convinced of the lapse of time did he realize that something strange and abnormal had happened to him. On account of the position he held, his family had kept the matter quiet, and as he was away from the city for long periods and frequently, his business acquaintauces were easily satisfied with excuses. Worried over the state of affairs, and appreciating his lapse of memory, his wife persuaded him to consult me. In his normal condition I could elicit nothing from him as regards his absence, although he did his best to aid me. His memory of the last three months was a blank, and he was pitiably worried and nervous. Without much difficulty he was hypnotized, and through tentative suggestions he gradually veered around to his other personality. He said, when I suggested his name was unknown to me and he must tell me, "D—n it, you know my name is Simpson; what do you want to bother me about it for? You remember that, or else I don't take you fishing."

"Well, Mr. Simpson, let's go fishing.

"All right, wait until the boy comes back and I will close up the store."

"By the way, Mr. Simpson, how far is it to the city?"

"Oh, about forty miles."

In this manner of questioning Mr. Simpson, I found where the body of Mr. B. had been. The next day I hunted up Mr. Simpson's store, and found, indeed, that such an individual existed in the life of the village. Subsequent investigations cleared the matter satisfactorily, as far as Mr. Simpson was concerned.

I have hurriedly and abstractedly given an outline of this case, so we may be able to study it from a physiologic and pathologic view-point.

This man had passed through all the privations and excitement of the civil war. He received his discharge along with an unstable neurotic temperament, which demonstrated itself in a demand for alcoholic stimulants, which demand merged into the disease dipsomania. This latter symptom of neuronic disintegration was not distinctly recognized by his home friends, as the attacks were at first very infrequent and occurred among strangers while he was away from home, or, rather, he did not

return home until the nerve storm had spent its fury—the usual course in attacks of dipsomania.

His continued and reiterated statement that he came from Oregon can be traced to the fact that shortly after the war he had had some exciting and memory-marking episodes in that then wild and unsettled country. His passion for fishing must be accounted for by early habits, and perhaps atavistic sources.

Now, what particularly interests us is the cause of this second personality completely submerging the normal self, and this second personality exhibiting itself as a perfectly sane man, rational, consistent, and having all the indications of never having been any one else but the sentient Simpson. Objective symptoms showing marked pathological changes due to the excessive use of alcohol were wanting in both Mr. Simpson and Mr. B., and, besides, we must remember the large number of these cases lately studied by trained observers, in which alcohol pays little, if any, role in the histories. So, while one would at first be apt to see in dipsomania the leading cause, and hence an explanation, I do not think it played any more than a contributing cause, contributing occasional excitement to a brain, and thereby to its functional product, the mind, in which dissociation of memory had taken place. As demonstrated in the distinct personality of Mr. Simpson, these dissociated elements had become united to form another self, with a few memory and habit elements of the normal self remaining, but none of them associated with that normal self.

It is undoubtedly true that it is some physical state which causes these interesting phenomena of double and multiple personalities; but, as we have no certain knowledge as to the manner in which physical states cause certain mental states, so we are absolutely without any knowledge as to the methods by which morbid physical factors give rise to morbid physical events.

Whichever way we look at the subject, a thoroughgoing materialistic formula must provide a material accompaniment for every apparent activity of the mind. In other words, before we can reach any rational and scientific method of provisional reasoning we must set aside the idea that the real self is an immaterial, invisible, mysterious, unfathomable something which metaphysicians call mind, and another class of non-investigators call soul.

Self can only be called the consciousness of effort. We recognize our entity, our existence, the current elements of our inner life, by our efforts. Consciousness, then, is the recognition of the thinking self. This is possible only through molecular activity of the brain elements. If these brain elements are added to or subtracted from, if they break up and reunite in a different form, we get a change of personality. This change of brain elements can be brought about in various ways. It can be brought about by disease, drugs, alcohol, hypnotic suggestion and a psychical state which it is at present difficult to satisfactorily explain. We also know that extensive changes in the mass of bodily sensation are frequently accompanied by modifications in the sense of self.

One of the factors associated with self-consciousness is memory, and as this memory may be in abeyance for weeks or years, while a new or secondary memory takes its place, it is readily seen how such a state will result in an apparent second personality, the absence of memory destroying the individual's sense of his normal self.

We see in the case of Mr. B. that the greater part of his normal self-memory was obliterated, and the two elements of this primary state which remained, if the predilection for fishing can be called a memory, had lost all organic connection with each other. His moral side, his business integrity, his character and instincts remained the same. From all the information I could gather, he was a strictly temperate Mr. Simpson ; but as his periods of sobriety, when he was his normal self, would last six or seven months, and as he was Mr. Simpson the storekeeper for only three months, we can no more than surmise as to his attitude in this respect. As there was no material change in the active side of Mr. B.'s nature, and as dipsomania is a symptom of a pathologic condition, it is reasonable to suppose that Mr. Simpson would go on just as successful a spree as would Mr. B.

While it appears, on a cursory glance at these alternating personalities, that when there has been a new combination of the elements of personality the other character has become extinct, a close examination will disclose a connecting link of memory elements observable to the investigator, but apparently unrecognized by the consciousness of the altered self. This brings us to the theory of subliminal self, or as others put it, the subconscious mind, or as I prefer to call it, in order to avoid

prolixity and confusion, a distinct second self. This second self is considered by some as existing beneath the level of the normal self, and as having its own memories, interests, hopes and fears, as acquainted with the existence of the upper self, and as bearing to it a relation sometime hostile, sometime benignant.—(Prof. Romaine Newbold). I simply mention this view, held by some of the modern psychologists, as showing the trend of some minds when physiologic facts have been stored away in some of their subconscious minds.

I believe it is in the highest and most complex part of the neuron, perhaps in its assimulating function, that some error exists which allows the memory elements to become dissociated and then differently united to form a secondary memory self. The exact biologic and functional state of neuronic factors, the metabolic changes and the possible interruption of the pathway of assimulation and disintegration must be understood before we can make any exact statement as to the direct cause producing these perplexing changes of personality. I believe most, if not all, of these cases can be traced to some early forgotten brain disturbance in fœtal life or infancy. The connections among the brain elements are infinite, and if a single germ possesses the organic and latent mental characteristics of the parents, what limits are there to the possibilities of error in function among the millions of the cells of the brain?

However, how many theories may be evolved, the medical man must avoid any complications with questions of epistemology or metaphysics. Complex mental experience is only an inner representative of a genuine externality, and a strict adherence to this fact should be the attitude of the neurologist.

In giving you a few of my ideas and thoughts on double personality I am fully aware of the mass of interesting theories and arguments I have been unable to mention. There is the idea of atavism, or ancestral influence, in the organization which some scientists have builded upon. The significance of the double brain, and the relation which each hemisphere has to the formation of an idea, is another example. Ireland ascribes the alternate memory of double personality to unequal or alternate action of the cerebral hemispheres. Golz, Hughlings, Jackson, Broca and Fasola have all made interesting experiments along this line. The contributing causes producing these alternations of personalities, *i. e* , epilepsy, hysteria, mental and moral shock, alcohol and drugs, sexual perversions, hypnotism and the physiological rhythms have all to be studied in their relation to some definite biologic, physiologic or pathologic disturbance in a brain on which is undoubtedly stamped the *damnosa hereditas.*

THE AMERICAN GOVERNMENT AND PEOPLE AND THE ENGLISH HOME SECRETARY.

BY CLARK BELL, ESQ., OF THE NEW YORK BAR.

There has been a disposition to criticise and find fault with our Government, and to blame the public authorities for neglect of duty, in not effecting the release of an American citizen from an English prison, whom nearly all our people believe to be innocent, and many of whom believe is and has been illegally detained under English law. The long confinement of Mrs. Maybrick, the ineffectual efforts for her release, the hoped for pardon at the Queen's Jubilee, "the hope deferred that maketh the heart sick," at an oppression which has aroused general sympathy wherever the English language is spoken, has made us forget the steps taken in the past by the several American administrations that have been in power since Mrs. Maybrick commenced her long and terrible imprisonment.

Some reminiscences of the strenuous efforts made in her behalf will serve to show that the fault is not at the door of our public officials.

On August 22, 1889, Hon. Jas. G. Blaine cabled Mr. Robert Lincoln, American Minister in London, instructions to intercede with Lord Salisbury for her pardon or reprieve. On August 24th, 1889, Mr. Lincoln replied to Mr. Blaine as follows:

LEGATION OF THE UNITED STATES.
LONDON, August 24, 1889.

Sir:—I have the honor to inclose herewith a copy of the translation of your cipher telegram, dated Bar Harbor, and received by me on the 22nd instant. It was found impossible to translate the cipher word, twice used, indicating the person whose sentence was the subject of the instruction; but having no doubt under all the circumstances, I assumed that Mrs. Maybrick was indicated, and at once had an interview with Lord Salisbury and gave him the information and assurances substantially in accordance with your instruction.

His lordship at once replied that the subject had been anxiously considered, and that he believed he could say that the death sentence would not be executed, as all the medical evidence attainable left a reasonable doubt as to the death having been caused by the arsenic administered by Mrs. Maybrick with the purpose—as to which no doubt was held—of causing death.

With the permission of Lord Salisbury I then sent you a cipher telegram, of which a translation is inclosed. Late in the following night the commutation of Mrs. Maybrick's sentence to imprisonment for life was officially announced to her.

I have, etc., ROBERT T. LINCOLN."

On August 29, 1889, a large number of American women united in a petition to Her Majesty the Queen of England for the release and pardon of Mrs. Maybrick, assigning fourteen separate reasons calling for her release; asserting that after reading the published evidence for and against her, that they were of one united mind, "that she was wrongfully accused of the crime of murder, and is now unjustly confined and sentenced to a lifelong imprisonment for a crime which was never committed either by herself or any other person."

Judge Richard H. Clark, Circuit Judge of Atlanta, Ga., had appealed to Mr. Blaine, the American Secretary of State, for the aid and intervention of our Government through the State Department, and enclosed a copy of this petition of American women, and again on November 12, 1889, he wrote Mr. Blaine, renewing his prior application in a carefully prepared statement.

Dr. John P. Campbell, of New York City, had also in November, 1839, written to Mr. Blaine, asking the intervention of the State Department to cause the transmission of the same petition to Her Majesty the Queen of England, signed by three thousand American women for the release of Mrs. Maybrick.

On February 14, 1890, Mr. Blaine replied:

MR. BLAINE TO MR. CAMPBELL.

"DEPARTMENT OF STATE, WASHINGTON, February 14, 1889.

Sir:—Circumstances have prevented an earlier acknowledgment of your letter without date, but received here on the 3d of December last, in which you ask the intervention of this Department to cause the transmission to Her Majesty Queen Victoria, of a petition of three thousand American women, having for its object the release of Mrs. Florence Maybrick, recently convicted in Eng-

land of murder and now imprisoned at Woking under a life sentence.

Mrs. Maybrick's case has enlisted the Department's attention, and shortly after her conviction the Minister of the United States at London. Mr. Robert T. Lincoln, used his unofficial good offices with the authorities there to the end that the original capital sentence of the Court, since commuted might not be carried into execution.

The question of any interference by one Government in the administration of justice within the jurisdiction of another is at all times a delicate one, and the difficulty was increased in the present case by the fact that the defendant had become the wife of a British subject. As Mrs. Maybrick's case is here understood, it is not perceived upon what grounds the Government of the United States could at present further interfere in her behalf. I do not, therefore, feel warranted in making our legation at London the channel for the communication of the petition in question to the British Government, especially as in somewhat analogous cases heretofore the direct presentation of such a petition, by the signers, to the British Home office has been advised as the regular and proper course to pursue.

I am, etc, JAMES G. BLAINE."

The Rev. J. P. T. Ingraham, Rector of Grace Church, St. Louis, Mo., on January 22, 1890, appealed to Mr. Blaine as Secretary of State, for aid of the Government, to whom on February 1st, 1890, Secretary Blaine replied as follows:

MR. BLAINE TO REV. J. P. T. INGRAHAM.

"DEPARTMENT OF STATE, WASHINGTON, Feb. 1st, 1890.

Sir:—I have to acknowledge the receipt of your letter of the 22nd ultimo, in relation to the case of your grandniece, Mrs. Florence Maybrick, recently convicted in England of murder, and now imprisoned there under a commuted life sentence.

Mrs. Maybrick's case has enlisted the Department's attention, and shortly after her conviction the Minister of the United States at London, Mr. Robt. T. Lincoln, used his unofficial good offices with the authorities there, to the end that the original sentence of the court, since commuted, might not be carried into execution. You will, of course, understand the delicate character of any interference of any Government in the administration of justice within the jurisdiction of another, and that difficulty was increased in the present case, by the fact that the defendant, although of American origin, had become the wife of a British subject.

As Mrs. Maybrick's case is here understood, it is not perceived upon what grounds the Government of the United States could, at present, further interfere in her behalf.

I am, etc., JAMES G. BLAINE."

On June 27, 1890, Mr. Blaine wrote Mr. Lincoln as follows:

"DEPARTMENT OF STATE, WASHINGTON, June 27, 1890.

Sir:—I inclose for your information and files an extract from a letter addressed to me by the Hon. Richard H. Clark, presiding judge on the Atlanta circuit, dated the 21st instant, in relation to the case of Mrs. Florence Maybrick, undergoing life sentence at Woking, England, for murder.

My reply of even date herewith, followed substantially the language of my letter to Mr. Campbell of February 14, 1890, a copy of which accompanied my instructions to you, No. 184, of that date.

I am, etc., JAMES G. BLAINE."

On April 14, 1891, Mr. Blaine wrote Mr. Robert Lincoln, American Minister, as follows:

"DEPARTMENT OF STATE, WASHINGTON, April 14, 1891.

Sir:—In response to the wishes and convictions of a large and most intelligent and respected class of our people, I venture through you to call Lord Salisbury's attention to the case of Mrs. Maybrick. She is connected by ties of blood and affinity with many families of the highest social position in this country, several of them being distinguished in public life, one lately a Supreme Judge of the United States. I mention this to show that her birth and rearing afford a strong presumption against her being guilty of a great crime.

It is the belief of a large number of persons, for whom I speak, that Mrs. Maybrick was, on her trial, the victim of a combination of circumstances, not the least influential of which was the peculiar mental condition of Mr. Justice Stephens, now made public and widely recognized, and lately resulting in his retirement from the bench.

The Department has had many petitions and the pressure is so great, that I beg, through you, to ask Lord Salisbury's consideration of the whole case.

It is one of the privileges mutually conceded and enjoyed by the United States and Great Britain, that a strong opinion respecting the guilt or innocence of a person convicted in the one country may be put forth in the other. Even within the last year the Government of the United States has twice intervened, at the request of Her Majesty's minister in Washington, in behalf of those supposed to have been erroneously convicted of crime. It is in accordance with this custom that I venture to make this request.

I am, etc., JAMES G. BLAINE."

On April 18th, 1891, Mr. Blaine telegraphed Mr. Lincoln as follows:

"DEPARTMENT OF STATE, WASHINGTON, April 18, 1891.

A feeling of great interest attaches to pardon of that lady. Go as far as diplomatic privileges will allow and justify. Expect letter next Wednesday. BLAINE."

The following correspondence then occurred:

MR. LINCOLN TO MR. BLAINE.

(telegram.)

"LONDON, April 28, 1891. (Received 3 p. m.)

Referring to your instructions 492, Maybrick, it is very difficult to preserve its tone in a note signed by myself. May I leave a copy with Secretary of State for foreign affairs at an interview to-morrow? LINCOLN."

MR. BLAINE TO MR. LINCOLN.

(telegram.)

"DEPARTMENT OF STATE, WASHINGTON, April 28, 1891.

Present 492 in manner deemed best. Is it not better to leave out all reference to Justice Stephens? If you think so adapt the language to the omission. BLAINE."

MR. BLAINE TO MR. LINCOLN.

"BAR HARBOR, August 28, 1891.

Dear Mr. Lincoln:—Please deliver the accompanying letter to the proper officer for transmission to the Queen. It is signed by only four names Please attend to it promptly.

Very sincerely yours, JAMES G. BLAINE."

(Inclosure.)

EXECUTIVE MANSION,

WASHINGTON, August 7, 1891.

To Her Majesty The Queen:

Madam:—The four and fifty years of your illustrious reign, has established you in the respect and love of the citizens of this Republic.

Confiding in the power of your Majesty, and in the power of your goodness, we pray your grace in behalf of our young countrywoman, Florence Maybrick, a widow, a mother, fatherless, brotherless, wearing out in prison a life sentence of penal servitude upon the charge of murdering her husband by arsenical poisoning.

The beneficient law of England, which has become so largely the basis of personal rights in our own country, requires that the proof of guilt should remove every reasonable doubt and it is understood here that the secretary of state of the home department of the English Government, upon a review of the evidence in Mrs. Maybrick's case, concluded that there was a reasonable doubt whether Mr. Maybrick died of arsenical poisoning, and upon this ground commuted the sentence of death to imprisonment for life. There seems to be the very highest medical and scientific authority in support of the proposition that Mr. Maybrick's symptoms were not compatible with arsenical poisoning. There was it is understood an entire absence of proof that Mrs. Maybrick administered or attempted to administer arsenic to her husband with intent to kill, while evidence that Mr. Maybrick had been in the habit of taking arsenic as a medicine was present in the case.

In view of all these facts, we earnestly, respectfully, and trust-

fully entreat of Your Most Gracious Majesty a pardon and release for Mrs. Maybrick.

Very respectfully,

CAROLINE SCOTT HARRISON.
HARRIET STANWOOD BLAINE.
ANNE M. FOSTER.
ELLEN N. RUSK.

The signatures are those of the wife of the President, the wife of the Secretary of State, the wife of the Secretary of the Treasury, the wife of the Secretary of Agriculture."

MR. LINCOLN TO MR. BLAINE.

LEGATION OF THE UNITED STATES,

LONDON, April, 30, 1891.

Sir:—I have the honor to acknowledge the receipt of your instruction No. 492, of the 14th ultimo, in reference to the case of Mrs. Maybrick.

I accordingly prepared a note to the Marquis of Salisbury, of which a copy is inclosed, embodying your instruction except as to the direct mention of Mr. Justice Stephens, and at an interview yesterday I read my note personally to Lord Salisbury, and explained to him orally upon reading the altered phrase, that I knew you had specially in mind the greatly regretted cause of the recent resignation of Mr. Justice Stephens, in referring to the propriety of a re-examination of all the circumstances attending the trial of Mrs. Maybrick, but that it was your wish that I should cause this to be understood without unnecessary directness of indication in writing. I also said to his lordship that within my own knowledge many persons of standing felt that she was, in fact, undergoing punishment for a murder committed, when the published finding of the home secretary himself was such, that if the jury had come to the same conclusion, as a matter of law, she would have been absolutely acquitted of the charge upon which alone she was actually indicted and tried.

Lord Salisbury said that he did not feel himself sufficiently familiar with all the facts of the case to reach a definite conclusion, and he added that it was not possible for him to act in the matter beyond transmitting to the home secretary, for the reason that it is, as his lordship expressed it, a matter of unwritten law that in such cases the home secretary acts individually and solely upon his own individual responsibility, none of his colleagues assuming or taking any part therein.

Lord Salisbury said that he would at once transmit my note to the home secretary, with a confidential note of his own to put him in possession of what I had stated orally.

I have the honor, etc. ROBERT T. LINCOLN."

MR. LINCOLN TO THE MARQUIS OF SALISBURY, K. G.

"My Lord; It will be within your lordship's recollection that in the month of August, 1889, I had the honor to express to you by direction of the Secretary of State, the solicitude which was felt

by a great number of my fellow countrymen in the United States in the then pending consideration of the sentence of death which had been imposed upon Mrs. Maybrick.

During the time which has elapsed since the commutation of that sentence to one of imprisonment for life, it has at all times been made evident to me, by letters and oral communications from many persons of the most estimable character, that Mrs. Maybrick's present deplorable situation continued in their anxious thoughts, but it is only now that it has seemed to me proper to again approach your lordship in reference to the case.

I have just received a communication from the Secretary of State, the tenor of which I find myself able to convey to your lordship only by using Mr. Blaine's own language, and I therefore quote from it as follows:

"In response to the wishes and convictions of a large and most intelligent and respected class of our people, I venture through you to call Lord Salisbury's attention to the case of Mrs. Maybrick who is connected by ties of blood and affinity with many families of the highest social position in this country, several of them being distinguished in public life, one lately a supreme judge of the United States. I mention this to show that her birth and rearing afford a strong presumption against her being guilty of a great crime.

It is the belief of a large number of persons, for whom I speak, that Mrs. Maybrick was on her trial the victim of a combination of circumstances, the influence of which, all taken together, is now the proper subject of re-examination.

"The Department has had many petitions, and the pressure is so great that I beg through you to ask Lord Salisbury's consideration of the whole case.

"It is one of the privileges mutually conceded and enjoyed by the United States and Great Britain that a strong opinion respecting the guilt or innocence of a person convicted in the one country may be put forth in the other. Even within the last year the Government of the United States has twice intervened, at the request of Her Majesty's minister in Washington, in behalf of those erroneously convicted of crime. It is in accordance with this custom, that I venture to make this request.

I have the honor to be, etc. ROBERT T. LINCOLN."

MR. LINCOLN TO MR. BLAINE.

"LEGATION OF THE UNITED STATES,

LONDON, May 16, 1891. (Received May 25).

Sir:—Referring to my despatch, No. 453, of the 30th ultimo, in which I inclosed a copy of my note to Lord Salisbury with reference to the case of Mrs. Maybrick, I have now the honor to inclose herewith the reply I have received from his lordship to the abovementioned communication.

I have, etc., ROBERT T. LINCOLN."

LORD SALISBURY TO MR. LINCOLN.

"FOREIGN OFFICE, May 13, 1891.

Sir:—I did not fail to forward to the secretary of state for the

home department, your note of the 29th ultimo respecting the case of Mrs. Maybrick, which you placed in my hands on that day. I have now the honor to acquaint you that I have received a reply from Mr. Mathews in which he informs me that the case received his most careful consideration, and that it was only by taking an indulgent view of the evidence that he was able to advise Her Majesty to commute the capital sentence.

Since that decision nothing has occurred which could induce Mr. Mathews to interfere on behalf of the convict.

He can therefore express his sympathy with those persons in the United States of America, alluded to in your note, who have been moved to commiserate the sad fate of a woman well connected and well brought up, and his regret that he is prevented by a sense of public duty from complying with their wishes.

I have, etc. SALISBURY."

MR. LINCOLN TO MR. BLAINE.

"LEGATION OF THE UNITED STATES,

LONDON, September 24, 1891.

Dear Mr. Secretary:—Your note inclosing the petition in reference to Mrs. Maybrick came while I was out of town for a few days, but on the day of my return, as Lord Salisbury was, as are all members of the cabinet, away from London, I communicated your wish to him in a personal note. His reply, which I inclose, has just come.

It is my understanding that in matters of pardon or diminution of criminal sentences the home secretary acts alone and with an absolutely unshared responsibility, the use of the Queen's name being in all cases absolutely formal, and there being in no case any uninvited suggestion from his official colleagues.

Believe me, etc., ROBERT T. LINCOLN."

(Inclosure.)

DIEPPE, September 22, 1891.

Dear Mr. Lincoln:—I beg to acknowledge the receipt of your letter of the 17th instant, inclosing a petition to the Queen, which you have received unofficially from Mr. Blaine, relating to the case of Mrs. Maybrick.

This is a matter upon which the Queen can only be approached through the home secretary, and I have accordingly sent the petition, with the substance of your letter, to Mr. Mathews, with the request that he will give his attention to it.

I remain, etc., SALISBURY."

MR. BLAINE TO MR. LINCOLN.

(Personal and unofficial.)

"DEPARTMENT OF STATE, WASHINGTON, March 7, 1892.

My Dear Mr. Lincoln:—As Mrs. Maybrick lost her American citizenship by her English marriage, and as I fear she does not resume it by her widowhood, I cannot instruct you as to the course you should pursue toward her.

But her American and Southern birth, her connection with many

families of the highest respectability and even of prominence in the country's service, have attracted much attention to her fate.

I have no other interest in her than an interest which you and I share in common with all our countrymen—the desire to help an American woman in distress. That she may have been influenced by the foolish ambition of too many American girls for a foreign marriage, and have descended from her own rank to that of her husband's family, which seems to have been somewhat vulgar, must be forgiven to her youth, since she was only 18 at the time of her marriage.

There is a wide and widening belief in this country, that she is legally innocent and illegally imprisoned. The official charge of the judge that murder must be proved, and the official announcement of the home secretary, that the evidence leaves a reasonable doubt of murder are the premises of but one conclusion, the discharge of the prisoner.

The fact that she was never indicted or tried by a jury of her peers on a specific count of felonious attempt to administer arsenic, yet is condemned to penal servitude for life on the home secretary's statement that she evidently made such an attempt, can never be reconciled to the English principle that an accused person shall be tried by a jury of her peers. Lawyers here are among the strongest believers in the illegality of her imprisonment. Indeed, the sense of injustice is developing and deepening into horror.

Officially I could only instruct you on behalf of a multitude of American citizens to investigate her case. Personally I beg to express to you my deep interest in it, and pray you, if possible, to communicate with Messrs. Lumley and Sir Charles Russell as to any method of American co-operation which may seem to them desirable.

Messrs. Lumley have made a very able brief, which I am sure would interest you, and which seems to me unanswerable. Sir Charles Russell, whose reputation you know, is her counsel. Consult with them what best can be done from an American point of view, to secure Mrs. Maybrick's release. And if you shall have read the Lumley's brief, I am sure that conviction will urge you to personal activity in her behalf.

You can communicate with me in strict confidence, as from one American citizen to another, for the relief of an American woman helplessly enduring a great wrong.

Believe me, etc., JAMES G. BLAINE."

MR. LINCOLN TO MR. BLAINE.

"LEGATION OF THE UNITED STATES,

LONDON, May 28, 1892.

Sir:—I have the honor to acknowledge the receipt of your unnumbered instruction, dated the 16th instant, inclosing a petition to the Home secretary for the pardon of Mrs. Maybrick, and to acquaint you that I have addressed a note to the Marquis of Salisbury, of which copy is inclosed, requesting its transmission to Mr. Mathews.

I shall also take the first favorable opportunity of speaking to him in person on the subject.

I have the honor, etc., ROBERT T. LINCOLN."

(Inclosure.)

MR. LINCOLN TO MARQUIS OF SALISBURY.

"LEGATION OF THE UNITED STATES,
LONDON, May 27, 1892.

My Lord:—I have the honor to inclose herewith a petition addressed to the Right Honorable Henry Mathews, Her Majesty's principal secretary of state for the home department, which I have just received from Mr. Blaine, with instructions to present the same to him without delay, and I beg that your lordship will be so good as to cause it to be transmitted to its destination.

This petition asking for the pardon of Florence Elizabeth Maybrick, is signed by the Vice-President of the United States, the Speaker of the House of Representatives, all the members of the President's Cabinet, the General-in-Chief of the Army of the United States, all the chiefs of divisions of the War Department, and by several of the Assistant Secretaries and Solicitors of other Departments of my Government; also by the Cardinal Archbishop of Baltimore, who is the only prelate of that rank in the United States, and by other persons of distinction.

I am informed by Mr. Blaine that there would have been no difficulty in obtaining the signatures of all the members of the Senate and of the House of Representatives, but that it was thought that the mere addition of names to those by which the petition is signed, and which are so eminent and as thoroughly representative of the wish of the American people as any which could have been selected, would not have given additional weight to the petition.

I venture to add the expression of my hope that the important consideration set forth in the memorial and supported with such weight of responsible and representative opinion, and which, as I understand, have also a very large and influential support in England, and the fact that Mrs. Maybrick has already essentially suffered imprisonment for a period equal to that provided by statute as one limit in cases of entirely undoubted criminality of the crime alleged against her, may now seem to the home secretary to justify his advising Her Majesty in favor of Mrs. Maybrick's discharge.

I have the honor to be, etc., ROBERT T. LINCOLN."

MR. LINCOLN TO MR. BLAINE.

"LEGATION OF THE UNITED STATES,
LONDON, June 24, 1892.

Sir:—Referri g to my dispatch numbered 684, of the 28th ultimo, and to my cablegram of June 3d relative to the petition for the pardon of Mrs. Maybrick, which was transmitted in Mr. Blaine's unnumbered instruction dated 16th ultimo, I have the honor to inclose herewith a copy of a note which I have received from the Marquis of Salisbury, expressing the regret of the secretary of state for the home department at his inability to find reasons

therein set forth, for any ground for recommending to the Queen any further act of clemency toward the prisoner.

I have the honor, etc., ROBERT T. LINCOLN."

MARQUIS OF SALISBURY TO MR. LINCOLN.

FOREIGN OFFICE, June 21, 1892.

Sir:—With reference to my note of the 1st instant, I have now the honor to inform you that the petition in favor of the release of the convict Florence Elizabeth Maybrick has received the fullest consideration by Her Majesty's secretary of state for the home department.

Taking the most lenient view which the facts proved in evidence and known to Her Majesty's secretary of state, admit of the case of this convict, was that of an adulteress attempting to poison her husband under the most cruel circumstances, while she pretended to be nursing him in his sick bed.

The secretary of state regrets that he has been unable to find any ground for recommending to the Queen any further act of clemency toward the prisoner.

It may be satisfactory to the petitioners to learn that Mrs. Maybrick is reported by the authorities to be in fair health, and to have gained in weight since her admission to prison.

I have, etc., SALISBURY."

The foregoing letters and telegrams are copied from the message and accompanying documents of President Grover Cleveland, transmitted to Congress May 1st, 1896, pursuant to a resolution of which the following is a copy:

"Resolved, That the Secretary of State be directed to communicate to the House, if not incompatible with the public interests, such correspondence and other information as the State Department has in its possession in regard to the imprisonment of Mrs. Florence E. Maybrick, formerly of Mobile, Alabama, and the steps that have been taken by our Government to secure her liberation, or an inquiry by the Government of Great Britain into the merits of the case in which she was condemned."

(Vide House Document No. 370, 54th Congress, 1st Series—Message of President Grover Cleveland, dated April 30, 1896.)

The same message shows the action on file between Mr. Blaine's successor, the Hon. John W. Foster, and Mr. White, American Charge d'Affairs, in the fall of 1892; and between the Hon. Richard Olney and Mr. Bayard in 1895 and 1896:

MR. FOSTER TO MR. WHITE.

(Personal and unofficial.)

DEPARTMENT OF STATE, WASHINGTON, November 28, 1892.

My Dear Mr. White:—The friends of Mrs. Maybrick represent to me that the present is an opportune time to bring her case again to the attention of the British Government. Letters received by

me from persons who are in correspondence with friends in England give detailed reasons for this belief, which I hardly think necessary to repeat to you.

Since the official instructions were sent to your legation during the year 1891, Mr. Blaine wrote to Mr. Lincoln under date of March 7th last, that, in view of Mrs. Maybrick's English marriage, he could not give instructions to your legation officially as to intervention in her behalf. But this fact will not prevent you from making opportune unofficial representations to Lord Roseberry in behalf of an American-born woman who has a large circle of friends, representing the best classes of our society, deeply interested in her case, and who anxiously desire her release from imprisonment and the privilege of return to her native land.

In view of the fact that the representations in her behalf which have heretofore been made to the British authorities were communicated to the Government of Lord Salisbury, it has occurred to me that it would be found proper and prudent for you to have an informal and unofficial conference with Lord Roseberry at an early day and call his attention to the past action of your legation under the direction of this Department. It would seem well to make him aware of the fact that a petition in Mrs. Maybrick's behalf, signed by Mrs. Harrison and the ladies of the Cabinet, had been presented to Her Majesty the Queen, and that among other papers, a similar petition had been laid before Lord Salisbury, signed by the Vice-President of the United States, the Speaker of the House of Representatives, all the members of the Cabinet, a long list of the other high officials of the Government, Cardinal Gibbons, and others. In doing this you could assure Lord Roseberry, that the interest manifested by those petitioners was not only maintained in the United States, but that it had become intensified by time and the continued imprisonment of the subject of this unusual national sympathy, and you are authorized to say to him that the President and people of the United States would be greatly pleased if the present Government of Her Majesty would find it compatible with the public interests to bring about Mrs. Maybrick's release from further imprisonment.

It has been represented to me that Sir Charles Russell stands ready to press the subject upon Lord Roseberry's attention, if he can be afforded a good opportunity to do so, and that such opportunity may be brought about by a representation at the foreign office by your legation. It is left to your better judgment to determine whether it would be better to communicate with Sir Charles on the subject either before or after an interview on your part with Lord Roseberry.

Submitting this matter to your wide discretion, in the hope that you may be able to do something to realize the expectation of the large circle of Mrs. Maybrick's friends in the United States.

I am, etc., JOHN W. FOSTER"

MR. FOSTER TO MR. WHITE.

(Telegram.)

DEPARTMENT OF STATE, WASHINGTON, December, 6th, 1892.

White, Charge, London:

Mrs. Maybrick reported critical condition, hemorrhages. Steamer Wednesday carries instruction for active intervention for release. Act promptly when received. FOSTER."

MR. WHITE TO MR. FOSTER.

(Telegram.)

"LONDON, December 10, 1892.

In view of my telegram of yesterday, I venture to suggest, as release will certainly not at present be granted, and even if it were immediate, removal from prison would probably bring about hemorrhage and cause confidential report forwarded by the dispatch bag today; but if you think otherwise, please send by telegraph, and I shall see secretary of state for foreign affairs next Monday. From inquiries today at home office I question whether yet quite out of danger, though no return of hemorrhage.

WHITE."

BARONESS DE ROQUES TO MR. OLNEY.

1 RUE TANNERY, ROUEN, FRANCE, October 7th, 1895.

Dear Sir:—May I venture to address you, respectfully and frankly, with an entreaty to consider the present urgent necessity for a farther intercession from the American Secretary of State in behalf of my dear, innocent and most suffering daughter, Florence E. Maybrick.

You are aware, Mr. Olney, of the efforts which in the past have emanated from your Department in her behalf, thus creating a precedent which we trust you will permit to be sustained and once more continued at this crisis. By the lapse of time and the frequent intercessions we are at present nearer than ever before to the term of our release. Over six years of inexpressible trial this poor, unhappy, innocent young mother has been deprived of her children and of me, her only parent, and forced to live under degrading English detention, although there has been no evidence sufficient to convict her, and by the open opinion of the Lord Chief Justice she should be released.

Greater harshness has been shown to her than to English prisoners, who, detained at Woking since her entrance, have already been released. We have retained our courage to endure through the efforts of our own country people in our behalf. The late change of political power in England has brought the case and its injustice into notice in Parliament, and Mr. T. P. O'Connor, M. P., stated he had received numerous appeals from America, as well as petitions from the Government had been presented, and he asked reconsideration of the case by the present Home Secretary, Sir M. W. Ridley, who promised to comply. Under usual circumstances, were Mrs. Maybrick English, this promise would be sufficient to bring release. But she is considered as "an American woman," already noticed by the American Government—the precedent established in her favor—and farther intercession is expected for her to give color to an excuse for ridding themselves of so terrible a case of miscarriage of justice.

I will not take up your time, Mr. Olney, with the further reference to case, nor to my family, for whose sake I ask this favor, as we are alone two most unhappy women at this time, without political or other influence, and can only call on humanity and chivalry to aid us.

I remain, respectfully and sincerely,

CAROLINE VON ROQUES (*nee* Holbrook.)

MR. OLNEY TO MR. BAYARD.

(Personal.)

"DEPARTMENT OF STATE, WASHINGTON, October 18, 1895.

Sir:—I take this informal way of communicating to you copies of letters which I have recently received from Mr. H. A. Dodge, of Hamilton, Mass. (writing on behalf of his sister, Miss Mary A. Dodge), and of the Countess de Roques, the mother of Mrs. Maybrick, in regard to the renewal of the representations in favor of the unfortunate prisoner.

A previous letter from the Countess Roques referred to a communication received by her from Lord Russell, stating his conviction that Mrs. Maybrick should be released, and Mr. Dodge's letter cites the pertinent part of a letter addressed by Sir Charles Russell, when attorney-general, under date of 2nd December, 1892, to Miss Dodge, to the same effect.

I do not feel that I can do any more at present than to bring to your notice the letters of Mr. Dodge and the Countess Roques for your information and for the informal expression of your views on the subject, in the hope that it may be found practicable to do something toward the relief of an unfortunate woman whose case has aroused wide sympathy, not only in the country of her birth, but in England as well.

I am, etc., RICHARD OLNEY."

MR. OLNEY TO MR. H. A. DODGE.

(Inclosure No. 1.)

DEPARTMENT OF STATE, WASHINGTON, October 14, 1895.

Sir:—I received today your letter of the 10th instant in regard to making further efforts with the British Government looking to the pardon or commutation of the sentence of Mrs. Maybrick.

You state that your sister, Miss Mary A. Dodge, has in her possession a letter from * * * saying that Mrs. Maybrick ought not to have been convicted, and that she ought now to be released. It would aid the consideration I am well disposed to give to the mat- as soon as practicable and make every effort to secure early re-examination of case. OLNEY."

H. A. Dodge, Esq., Hamilton, Mass.

MR. OLNEY TO MR. BAYARD.

(Telegram.)

"DEPARTMENT OF STATE, WASHINGTON, November 9th, 1895.

Have best reason for believing that * * * has prevailed upon Sir Matthew White Rudley to reconsider Maybrick case and desires to confer with you as soon as he reaches London. Please see him as soon as practicable and make every effort to secure early examination of case. OLNEY."

MR. OLNEY TO MR. BAYARD.
(Telegram.)

"DEPARTMENT OF STATE, WASHINGTON, Feb. 5, 1896.

Maybrick counsel state that formal representations in her behalf to the lord chancellor should immediately be made. If counsel's statements are well founded, please make appropriate representations. OLNEY."

MR. OLNEY TO MR. BAYARD.
(Telegram.)

"DEPARTMENT OF STATE, WASHINGTON, February 20th, 1896.

Maybrick case; autograph letter * * * shown me in which he says that a new, formal and pressing representation by you would be useful. OLNEY."

The official correspondence in the messages of President Cleveland does not show fully the action of Mr. Blaine. It is well known that it was through his inspiration that Gail Hamilton enlisted in the effort the State Department was making through Mr. Blaine, commencing in September, 1891, in appeals of great force and power for Mrs. Maybrick's release, including an appeal addressed to the Hon. H. K. Asquith, then Home Secretary, dated October 3, 1892. (*Vide* p. 27, Senate Document No. 224, 54th Congress, 1st Session.)

The petition to the Queen was signed by the wives of all the Cabinet Ministers of the American Government at that time.

Mr. Blaine, in accordance with the suggestion of Messrs. Lumley & Lumley, soliciters, of London, acting under the advice of eminent counsel, caused a petition to be prepared containing the following points: "The irregular and illegal conduct of the jury, in forming their opinions of the evidence by reading the newspapers published from time to time during the trial; their attending public places of amusement during the evenings, and conversing with the public; the want of reliable evidence, and the absence of proof to connect Mrs. Maybrick with the death of her husband; that he being a notorious arsenic eater, it is doubtful whether the infinitesimal quantity of arsenic, said to have been found in the liver, could have had any injurious effect upon him; the absence of any motive for committing such a crime; and further, that Mr. Maybrick could

in no way be benefitted by her husband,s death ; that she was legally entitled to obtain a divorce, if she had so desired, by reason of his manner of conducting himself and his conduct towards herself ; the conflict of opinion of eminent medical men as to the cause of death," which was signed by the Vice-President of the Uniten States, by all the members of the Cabinet, and by forty representative Americans, praying for the release of "Florence E. Maybrick, an American, a widow without any near living relatives, except her mother, a mother deprived of her children, and condemned on what appeared insufficient evidence," which was forwarded in May, 1892, to the United States Legation, and in due course reached the Home Department.

It is well known that Hon, John W. Foster, our Secretary of State, made urgent and strong, though ineffectual efforts for the release of Mrs. Maybrick while in that office. The attitude of the present administration, it is well known to both the English Home Office, the English Government and the friends of Mrs. Maybrick, has been very strong indeed in endeavoring to secure her release.

President McKinley has gone further, perhaps, than any previous executive, as he has asked the English Government, through the American Minister, for the pardon and release of Mrs. Maybrick without reference to the question of her guilt or innocence, as an act of international comity and this request has been made as strong as it was possible to make it, he being impressed with a belief in her innocence.

The attitude of Hon. John Hay, the American Minister at London, and Mr. White, the American Charge de Affairs, at the American Legation, in carrying out the wishes of the President, have been earnest and zealous.

Whatever may be said or charged, as reasons for her further detention, it cannot be justly claimed that the President of the United States, or any American Secretary of State, have ever been derelict in their duty in urging upon the British Government the release and also the pardon of Mrs. Maybrick.

The position of the English Government is, that, under

their laws and usages, the pardon of Mrs. Maybrick rests alone with the Home Secretary; that not even the Queen herself has power in such a case; that her power can only be exercised on his recommendation; that the appeals by our Presidents, the Cabinet Ministers. and the wives of the President and our Ministers, can not even be shown to or considered by the Queen, and that the well-known fact, that members of the British Government, and high public officials, who personally favor her pardon, are of no avail, because, in the language of Lord Salisbury to Mr. Lincoln, when declining to submit the appeals to her majesty, signed by Mrs. Harrison and the ladies of the American Cabinet, that "it was not possible for him to act on the matter, beyond transmitting to the Home Secretary, for the reason that it is," as his lordship expressed it, "a matter of unwritten law, that in such cases the Home Secretary acts individually, and solely upon his own individual responsibility, none of his colleagues assuming or taking any part therein."

EDITORIAL.

THE CASE OF MRS. PLACE AND GOVERNOR ROOSEVELT.

If there was one single fact or element which could be adduced in mitigation of the crime for which this woman has been convicted, it was not presented to the Governor.

On an intimation from her clergyman, who of course had no knowledge upon the subject, that she was insane, the Governor appointed a commission, who reported that she was not now insane, nor was she so at the time of the murder, which was revolting beyond expression.

Two questions, or rather one only, was in fact submitted to the Governor: that, because she was a woman, she should not suffer the penalty the law imposes upon crimes such as she committed.

Every one who opposed capital punishment for crime, united in an outcry against the enforcement of the law which the Governor is bound by his oath to enforce.

Governor Roosevelt deserves the thanks of all good citizens for his courageous devotion to duty, and to the maintenance of the laws of the land.

Had he yielded to the popular clamor in this case of most unparalleled atrocity, the law would have been trampled upon by its enemies, and the dignity and authority of our system of criminal tribunals overthrown.

It is in the power, perhaps, of the State to discriminate in the punishment of crime, on the sex of the offender, by legal enactments.

When such a law is placed on the statute books, it could be obeyed by the executive without a violation of his oath.

We have failed to discover any intimation from any strong

or influential quarter, that the popular sentiment of woman would favor such a discrimination.

Many good women oppose capital punishment. We do not recall one of prominence, however, who would ask that a discrimination be made in the punishment of crime, by reason of sex. The more advanced thinkers among women reject such an idea.

Out of this case came an effort to abolish capital punishment for homicide, and a bill introduced for that purpose failed by a decisive vote in the New York legislature.

The true friends of the abolition of capital punishment have regretted that the question was raised now.

The victim of Mrs. Place's crime was an insuperable barrier to a calm consideration of the question. Mrs. Place herself was an unanswerable objection to the abolition. Until she was removed, the public mind would not consider the ethical and social questions involved.

Gov. Roosevelt is entitled to the thanks of all good citizens for the courage he has shown in resisting the clamor, and disregarding the violent personal abuse, even, that has been hurled at him.

MR. CHOATE AS AMBASSADOR TO ENGLAND.

The success which has attended Mr. Choate in his reception by Queen Victoria and the English people is a source of great gratification to Americans.

The President of the United States has been most fortunate in the selection of an Ambassador, outside of the ranks of the politicians, and he must be exceedingly gratified at the present position of affairs.

There is an earnest desire in the American heart to heal up all the feeling that has in the past estranged us against England.

We feel not only grateful to England for her enormous and generous aid in our recent affair with Spain, but we wish England to know that we are grateful for and appreciate, at their

true value, the splendid role played by British statesmanship in this important struggle, when the attitude of England could have made our part a more difficult one and prolonged a costly war, had she been hostile in feeling, and still kept her action within the strict line of international law.

It is because England was friendly, and because her attitude on the question of coal, for example, as contraband of war, that her rulers have endeared her course to the hearts of our people. We may be quick to resent injuries, but we will never forget a kind act nor a friendly service.

We prefer to believe that English statesmen acted out of sympathy for the high motive and purpose that underlay our intention, in Cuban affairs, rather than to ascribe it to a lower motive, as is done by those who hate England and her policy.

Mr. Choate has been a surprise to Englishmen. His career will still farther surprise them. They are amazed at the splendid diplomacy he has shown, while stating in an apologizing way his lack of diplomatic experience.

They cannot understand how one can expect to become a successful diplomat without great preliminary experience and training. It is to be the destiny of Mr. Choate to educate them in this regard.

He is particularly fitted for a high diplomatic career. He has been, *par excellence*, the leader of the American bar for years.

All his life his environment and his experience has peculiarly fitted him for the exigencies of his present position, beyond any man on our side the water.

He has had fourfold the advantage which Franklin had enjoyed when he represented our country, in Revolutionary times, abroad, with ability, brilliancy and credit.

Mr. Choate has a charm of manner, an eloquence, and a gift as an after-dinner speaker, second to no American; and this is not a recent condition of Mr. Choate's equipment, but it has been true of him for a decade and longer.

He has no superior in this country, in our opinion, for the kind of work he is to be called upon to do for his country, at

the Court of St. James, in aiding English officials in sympathy with our and their armies; in removing every cause of irritation that now exists, or has existed, between the two countries, and of marking out lines of action for the incoming century, which will make the pathway of the leading English speaking nations of the world a blaze of glory in the progress of the civilization of mankind.

COUNSEL FOR INSANE HOSPITALS.

There are now eleven institutions in the State of New York for the care of the indigent insane, beside that for the insane criminals, making twelve in all, denominated "State Hospitals."

In 1897 the legislature in the appropriation bill for that year, by an obscure clause, adopted this provision:

"The commission shall appoint an attorney for each State Hospital, who shall conduct all of the legal business required to be done for or on account of said hospital, at a stated sum to be fixed by the commission, and which shall be a charge upon the maintenance-account, and paid as other expenses of the hospitals are now paid."

It was not proposed as an amendment to the Insanity Act, and was entirely unnoticed and not discovered at all.

Governor Roosewelt, in his inaugural address, made the following recommendations:

Every effort should be made to reduce the expenses of the State Government. Appropriations should be itemized and not, save in rare cases, made in lump sums. All needless offices should be abolished. For instance, the Attorney-General's office should do the work now done by the special counsel for the different hospitals for the insane; and these special counsel should be abolished.

The New York Sun, in commenting recently on the recommendation of the Governor that these offices should be abolished, says:

If it be true that the services are not required, the recommendation is a good one. On the other hand, if the different State hospitals need frequently to be advised by counsel and represented by them in legal proceedings in and out of court, the suggestion that the Attorney-General's office should do this work is impracticable. The new Attorney-General has recently made public complaint that the Law Department of the State is not sufficiently paid to enable it to discharge the duties already imposed upon it.

In any event, it would seem that the law business of a State insane asylum could be better managed by lawyers of the same locality than from an office which would have to reach out from Albany to twelve different directions in as many different parts of the State.

The practical working of the new law, which has been in operation more than eighteen months, has been that the aggregate expenditure for attorneys is less than the aggregate expenditure for legal services under the former system under the Artorney-General for the previous eighteen months, and in some respects the new system is more desirable than the old in celerity of service, when this is sometimes necessary and important.

In New York City, for example, the State hospital was saved an expenditure of $30,000 a year by the summary and prompt action of the attorney, which, under the former practice, would have been lost, because before the Attorney-General could have selected and appointed counsel the opportunity would have passed.

It is no doubt to the interest of the State that the Commission have the power of immediate and prompt action, by attorneys, in any exigency.

The Governor's suggestion that this work be done by the Attorney-General's Office, would be quite impracticable, if not impossible.

The manner of the passage of the Act is reprehensible and merits disapproval. It should have been fairly and openly presented upon its merits. The method of appointment is faulty. The Act should have precautions that the counsel should be selected without regard to political or partisan considerations.

If the selections were made wholly outside of partisan considerations, the Board is quite competent to select, if it would act as a Board, but if the Board gave the selection to the Legal Commissioner alone, as has been done, it might give rise to abuses and criticism.

The following are the names and addresses of the attorneys who have thus far been appointed, with their salaries:

NAME.	ADDRESS.	SALARY.
James S. Sherman,	Utica,	$1,200 00
S. S. Partridge,	Phelps,	1,200 00
H. M. Taylor,	Poughkeepsie,	1,200 00
John B. Swezy,	Goshen,	1,200 00
John E. Pound,	Lockport,	1,500 00
Geo. B. Curtis,	Binghamton,	1,200 00
Geo. R. Malby,	Ogdensburg,	1,200 00
J. M. E. O'Grady,	Rochester,	1,200 00
Marcus B. Campbell,	Brooklyn,	2,500 00
Geo. C. Austin,	New York,	4,000 00
L. F. Stearns,	Dunkirk,	1,200 00

Only eleven have been appointed, and no attorney has been selected for the Hospital for Criminal Insane, as we understand it.

No action has been taken in the legislature, thus far, upon the recommendation of the Governor.

The salaries paid are moderate, and it might be a wise policy to try the new system before the abolition of these officials, as recommended by the Governor.

CRAIG COLONY PRIZE FOR ORIGINAL RESEARCH IN EPILEPSY.

The President of the Board of Managers of Craig Colony offers a prize of $100 for the best contribution to the pathology and treatment of epilepsy, originality being the main condition.

The prize is open to universal competition, but all manuscripts must be submitted in English.

All papers will be passed upon by a committee, to consist of three members of the New York Neurological Society, and the award will be made at the annual meeting of the Board of Managers of Craig Colony, October 10, 1899.

Each essay must be accompanied by a sealed envelope containing the name and address of the author and bearing on the outside the motto or device which is inscribed upon the essay.

The successful essay becomes the property of the Craig Colony, for publication in its Annual Medical Report.

Manuscripts should be sent to Dr. Frederick Peterson, 4 West 50th St., New York City, on or before September 1, 1899.

NATIONAL ASSOCIATION AMERICAN PHYSICIANS AND SURGEONS.

This body will hold its annual meeting in Chicago, May 31 to June 2, 1899.

Arrangements will be made for delegates to arrange for transportation at reduced rates, *via* the Nickel plate Route, the details of which can be learned by addressing F. J. Moore, General Agent of Passenger Department, at Buffalo, N. Y., or the Editor of this Journal.

SUPREME COURT OF THE STATES AND PROVINCES OF NORTH AMERICA.

Series five of Vol. II. is nearly completed and will shortly be ready for delivery to subscribers, or on order. It will contain Colonial Sketches by Judge F. Carroll Brewster.

The State of Connecticut: Historical sketches, biography of the Judges, and portraits of the present Bench; ex-Chief Justices, ex-Associate Justices; a large collection of portraits.

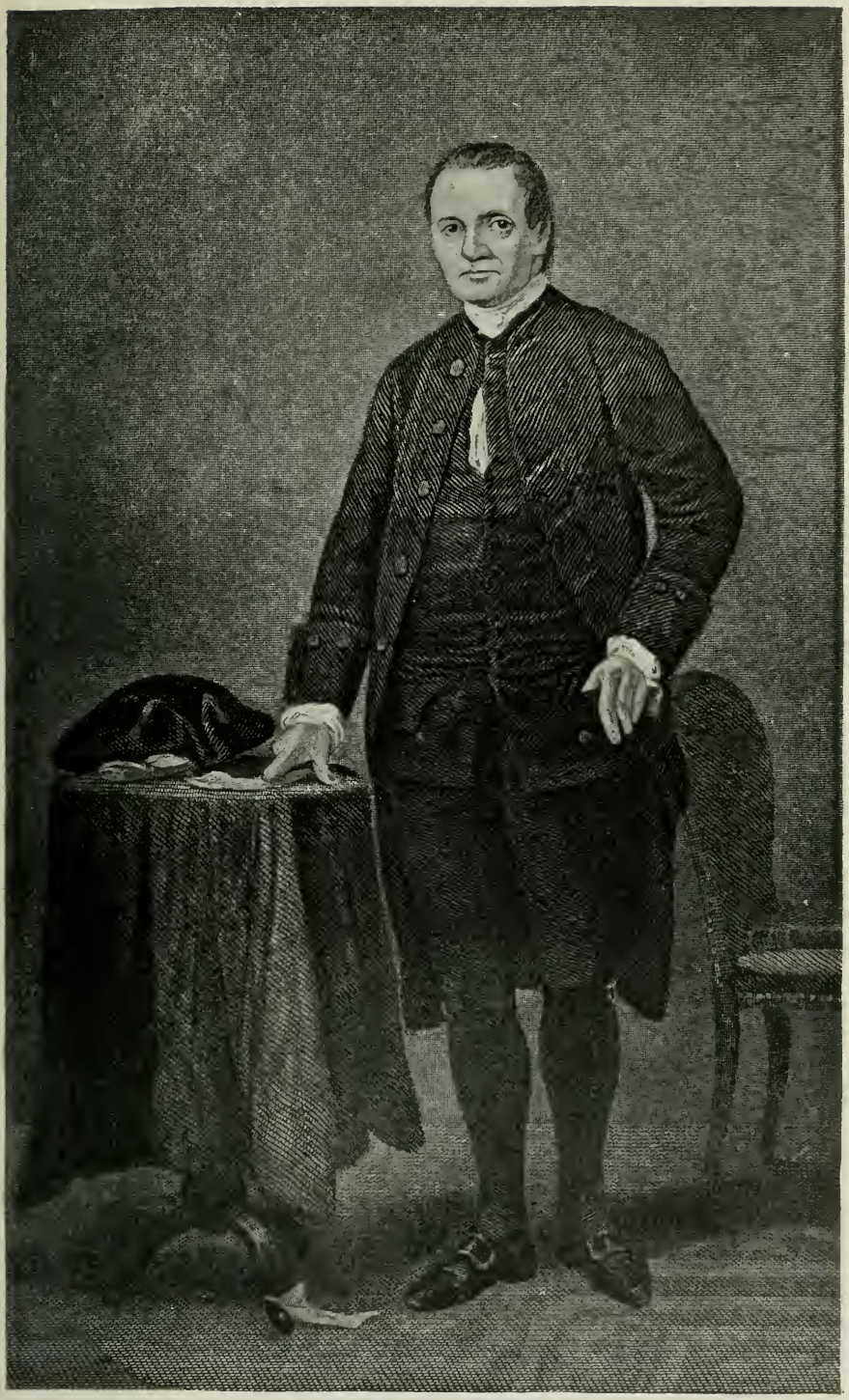
The State of Rhode Island, with list of Chief and Associate Judges, biographies and portraits of its present Bench and of Chief and Associate Judges of that Court.

The Supreme Court of Santiago de Cuba, with portraits of the present Bench.

The price of Series 5, complete, will be $1.00.

The price of Vol. I., complete, will be $5.00, of which Series 1 to 5 are now completed.

Series 6, Vol. I., will contain the States of New Hampshire, Minnesota and Ohio, and perhaps Massachusetts, if the data to finish it can be obtained in time.



ROGER SHERMAN,
Ex-Associate Justice Supreme Court of Connecticut.
From the original painting by Chappel.
1784-1785.

From Advance Sheets Supreme Court of the States and Provinces of North America.

The State of Connecticut, complete, as a brochure, will be published, by itself, at 50 cents per copy. It will contain the following portraits:

1. The present Bench of the Court.

2. Ex-Associate Justices Elisha Carpenter, Dwight Loomis, Sidney B. Beardsley, E. W. Seymour and Augustus H. Fenn, in one group.

3. Ex-Associate Judges Chauncey Goodrich, John Trumbull, Elizur Goodrich, Roger Sherman and John Treadwell, in one group.

4. Ex-Associate Judges Eliphalet Dyer, Oliver Ellsworth, Simeon Baldwin and Richard Law, in one group.

5. Jeremiah Wadsworth and his son, a full length portrait.

6. Roger Sherman, a full length portrait.

7. Ex-Chief Justices Thomas S. Williams, Thos. Belden Butler and Origen S. Seymour, in one group.

8. Ex-Chief Justices Samuel Huntington, Wm. Samuel Johnson, Stephen Mix Mitchell, Jonathan Trumbull and Oliver Wolcott, in one group.

The State of Rhode Island: This State will also be published as a separate brochure, and besides the historical sketches of the Court and the Judges, it will contain portraits of the present Bench in one group, portraits of ex-Chief Justices and ex-Associate Judges. The price will be also 50 cents per copy.

The separate brochure of the Court of Santiago de Cuba will be sold at the price of 25 cents each, containing the group of the present Court in session.

THE PARIS INTERNATIONAL MEDICAL CONGRESS OF 1900. SECTION OF MEDICAL JURISPRUDENCE.

We stop the issue of this number to announce that the Editor of this Journal has received from Prof. P. Brouardel, President of the Medico-Legal Section of the Paris International Medical Congress of 1900, a letter, of which the following is a translation:

INTERNATIONAL CONGRESS OF MEDICINE OF 1900,
PARIS, April 3, 1899.

Monsieur and Honored Confrere:—The International Congress of Medicine, which will meet in Paris in the month of August, 1900, includes a Medico-Legal Section.

We thought that you would be willing to accept the mission of forming a local committee in the United States, which should undertake to organize the participation of the Medico-Legal Jurists of your country in the labors of the Medico-Legal Section of the Congress.

Enclosed we have the honor to transmit you the questions that the French committee contemplates to consider study specially, and which will constitute the subject of reports made by scientists, those for France having been already designated.

We would feel highly pleased to have the same questions treated simultaneously and in a parellel way by foreign investigators, and we hereby beg you to kindly notify us of the names of the persons in your country who would be willing to present reports on any one of the said questions. Such reports should be forwarded to us within the period of one year at the least.

The Board of the French Committee is composed as follows:

President, Professor Brouardel, Dean of the Faculty of Medicine of Paris.

Secretary General, Dr. Motet, 161 Rue de Charonne, Paris.

Assistant Secretary, Dr. Thoinot, 8 Rue de l'Odeon, Paris.

Those gentlemen are entirely at your disposal to answer any query for information that you may do them the honor so ask.

Please receive, Sir, the assurances of our high regards.

For the French Committee of the Section of Legal Medicine,
P. BROUARDEL, President.

To DR. CLARK BELL,
39 Broadway, N. Y., U. S. A.

CONGRES INTERNATIONAL DE MEDECINE, PARIS, 1900.
SECTION DE MEDECINE LEGALE.

QUESTIONS DEVANT FAIRE L'OBJECT DE RAPPORTS.

1. *Docimasie pulmonaire.* Rapporteurs francais, MM. Descoust et Bordas.

2. *Action des nouvelles poudres sans fumee sur les vetements et sur la peau.* Rapporteurs, MM. Thoinot et Vieille.

3. *Putrefaction oculaire au point de vue de la determination de la date de la mort.* Rapporteur, M. Descoust.

4. *La combustion criminelle des cadavres.* Rapporteur, M. Ogier.

5. *De la mort accidentelle par l'electricite.* Rapporteurs. MM. d'Arsonval et Bordas.

6. *Les Lesions valvalaires consecutives a des traumatismes des parois thoraciques.* Rapporteurs, MM. Castiaux et Laugier.

7. *Les expertises rendues necessaires par les accidents pouvant resulter de l'usage habituel d' aliments ou de boissons dont la conservation a ete assuree par des agents chimiques* [borax, acide salicylique, formol, etc.]. Rapporteurs, MM. les professeurs Brouardel et Pouchet.

8. *Des delits resultant de la pratique du magnetisme par des personnes non diplomees.* Rapporteurs, MM. Gilles de la Tourette et Rocher.

D'au tres questions pourront etre traitees par les Membres du Congres qui sont invites a faire connaitre a l'avance le titre de leurs communications au Secretaire general.

Members of the Medico-Legal Society, who will consent to

prepare contributions upon the subjects named, or upon any other subject, to be completed and forwarded within one year from April 1, 1899, will please send their names, and the titles of their communications, to the Editor of this Journal.

All students of Forensic Medicine, whether members of the Medico-Legal Society or not, are embraced within this invitation. The Committee, when formed under the request of the officers of the Section, will be announced in this Journal and in the public press.

NECROLOGY.

PROF. ISAAC LEWIS PEET, LL. D.—Isaac Lewis Peet, ex-President of the Medico-Legal Society, was born December 24, 1824, at Hartford, Conn. He graduated at Yale College in 1845, and at once entered on the work of his life as a Professor in the New York Institution for the Deaf and Dumb. He took the regular course in the Union Theological Seminary and graduated in 1849, but he was never ordained as a minister.

In 1867, on the retirement of his father, Harvey Prindle Peet, as Principal of the Institution, he was elected President and filled that office twenty-four years, when he was made Principal Emeritus. He was elected President of the Medico-Legal Society of New York in 1886, and his monograph on "The Criminal Responsibility of the Uneducated Deaf Mute" attracted wide attention and was regarded as an authority. He was one of the foremost men of his time on all questions connected with the welfare of the deaf and dumb. In 1872 he received the degree of LL. D. from Columbia.

He was Vice-President of the International Congress of Instructors, held at Milan, Italy, in 1880, and in 1892 was President of the Conference of the American Principals of Schools for the Deaf Mute, and he attended the Brussels International Congress of 1893.

He took a deep interest in the work of the Medico-Legal Society for more than a quarter of a century.

His death occurred December 28, 1898. His funeral was held at the institution over which he had so long presided, in the chapel, and was largely attended. The Rev. Dr. Stoddard delivered an address on his life and career, also Rev. Thomas Gallandet and Dr. Edward M. Gallandet, who had been his lifelong friends. His funeral was largely attended.

He leaves a widow, two sons, Dr. Walter B. Peet and Geo. Herbert Peet, and a daughter, Miss Bessie Peet.

Judge Benjamin M. Bosworth.—The sudden death of Judge Bosworth, of the Supreme Court of Rhode Island, in February, 1899, created a vacancy in that Bench which has been filled by the appointment of Judge Edward C. Dubois. A sketch of the life and career of Judge Bosworth appears in another part of this number of the Journal.

He was greatly beloved, and his funeral was attended by the greater part of the State officials, and by his associates, one of whom, Judge Horatio P. Rogers, pronounced a funeral oration at the obsequies.

Geoge Allen M. D.—Dr. Allen was born in Poultney, Vt., in 1853, educated at Rochester Uuiversity, N. Y., and a graduate of the Hahneman Medical College of Philadelphia, Pa.

He served as an interne at the Ward Island Hospital, New York City, after graduation. He commenced practice in partnership with Dr. E. A. Munger, at Waterville, N. Y. In May, 1890, he was appointed First Assistant Superintendent of the State Hospital for the Insane, at Middletown, N. Y., where he served until May, 1897, when he was made Superintendent of the State Homœopathic Hospital, at Collins, N. Y. His death occurred on November 14th, 1897, at Gowanda, N. Y. He was a valued member of the Medico-Legal Society.

Dr. Selden H. Talcott, Superintendent of State Hospital at Middletown, contributed a memorial notice of his life and career, which appeared in the 5th volume of the Transactions of the Ameaican Medico-Psychological Association.

H. A. Buttolph, M. D.—Dr. Buttolph was born April 6th,

1815, at North East, Dutchess Co., N. Y., of German lineage on his father's side, and Irish on that of the mother.

He graduated from the Berkshire (Mass.) Medical College in 1836. He practiced medicine in Sharon, Conn., for five years, and took a post graduate course in the University of New York City.

Giving his attention to mental diseases, Dr. Brigham called him as an assistant to the Utica Asylum for the Insane, where he remained for four years. In 1847 he was appointed Superintendent of the State Lunatic Asylum at Trenton, which position he held until April, 1876, when he was appointed Superintendent of the then new State Asylum at Morris Plains, New Jersey, an institution to which he had given a large share of attention in its plan, scope, construction and details of all kinds, and this magnificent edifice and its location and construction is and must be permanently associated with his name and fame.

He served here as Superintendent until nearly seventy-three years of age, when, at the end of 1884, he resigned and made his home at Short Hills, N. J., where he resided until his death, May, 1898, at the advanced age of 83 years. He received the degree of Doctor of Laws from Princeton College in 1872.

He continued his interest in Forensic Medicine until almost the close of his life. He was a corresponding member of the Medico-Legal Society many years. He had visited more than thirty of the leading hospitals for the insane in Great Britain, France and Germany, was a close student of the science of mental diseases, a valuable man and universally recognized as one of the leading alienists of his time.

James Olmstead, M. D.—Dr. Olmstead was born in New Haven, Conn., and graduated at Yale in 1872, and studying medicine in the Medical School of that University, graduated as M. D. and entered the New Haven Hospital for service, and later commenced practice in New Haven.

Preferring the care of the insane, he was in 1876 appointed Assistant Physician in the Connecticut State Asylum under Dr.

Shaw, and on the death of the latter, in 1886, he was appointed Superintendent until his death, December 4, 1897, at Hotel Grenoble, New York City. He hastened his death by overwork in his position.

No more conscientious and devoted superintendent was ever in charge of an institution.

For many years he was corresponding member of the Medico-Legal Society, and he ever took a deep interest in the study of Forensic Medicine in the domain of mental diseases.

He was shy, retiring, modest and self-denying, and gave his very life to the good of his work and the inmates of the institution.

Irving Browne, the accomplished, genial, gifted and talented Irving Browne has passed into the hereafter since our last issue. Formerly Editor of the Albany Law Journal, which he did so much to bring into prominence, later, with facile pen enriching the columns of the Green Bag with matter which added so much to the attractive pages of that journal, he will be greatly missed.

Of kindest heart, a charming companion and cordial friend, I am glad to pay a tribute to the memory of one universally admired and beloved by all who knew him.

It is only a short time since Irving Browne paid an affectionate tribute to that gifted personage, Oakey Hall, in the Green Bag, with which so many members of the New York Senior Bar silently echoed an amen, for Oakey Hall, with all his peculiarities, had many strong friends and was, in his best days, one of the most conspicuous figures of New York.

Wallace C. Andrews.—The shocking death of Mr. Andrews and his family, on the night of April 6, will touch the heart of every one who knew him, with an appalling, ineffaceable sadness.

His name has stood first on the roll of members of the Psychological Section of the Medico-Legal Society for many years. He was a strong personality, a leading citizen, a successful man of affairs, and the calamity, that in a few moments en-

tirely obliterated every member of his household save one who was accidentally out of the city, is one of those inexplicable catastrophes which are as rare as they are terrible.

Mr. Andrews will be missed by a wide circle of friends, and his loss to the city is a public calamity.

GEORGE ROHE, M. D.—The death of Dr. Geo. Rohe, on February 6, 1899, removes one of the most brilliant of the junior alienists of America. For years a Professor of Nervous and Mental Diseases in the College of Physicians and Surgeons of Baltimore, Md., he was admirably equipped for the position of Superintendent of the Second Hospital for the Insane, at Sykesville, Md., where his career as a practical physician in charge of the insane was established.

He was identified with the American Public Health Association, and was its President at the time of his death.

He was a gifted man, a writer of stroug parts, endeared to a large circle of friends, and his early death, at the age of only 48 years, will be universally regretted.

PERSONAL.

HELEN GOULD.—It is with a peculiar pride and a high pleasure, that I add my tribute to this remarkable young woman, whose kindness of heart and greatness of soul has in the past year brought her virtues and good qualities to the notice of the civilized world.

Wherever our flag floats, the name of Helen Gould will be honored and revered. She has added luster to the American name. She has ennobled American womanhood, of which she has the loftiest ideals, by acts which will be ineffaceable in the pages of American history, and will indissolubly associate and elevate woman as a factor in our advancing American civilization.

Her example to the daughters of the wealthy is on the highest plane. She stands as an exemplar on the summit, the Alps, of American womanhood.

Her filial and pious duty to the memory of her departed

father has doubtless been among the highest of her inspirations—a worthy and a high motive, from a daughter to a great intellect, whom I knew and greatly admired,—but among his enemies and detractors no American can refuse the tribute of his thanks and gratitude to Helen Gould.

G. V. POORE, M. D., F. R. C. P., London, Professor of Medical Jurisprudence and Clinical Medicine, University College, London, Corresponding Member Medico-Legal Society, delivered the Milroy Lectures at the Royal College of Physicians of London, on "The Earth in Relation to the Preservation and Destruction of Contagion." These lectures are published in both the Lancet and the British Medical Journal.

WARREN B. OUTTEN, M. D., Chief Surgeon of the M. P. Ry. system, is still on the Executive Committee of the International Association of Railway Surgeons. His health has not been good. His place as Editor of the Railway Surgeon is much missed. He is editorially connected with a prominent journal, so that the profession will not lose his ready and able pen.

He takes deep interest in the cause of Medico-Legal Surgery, and will be a leading factor in the success of the annual meeting of the International Association of Railway Surgeons, at Richmond, Va.

PROF. JOHN V. SHOEMAKER, M. D.—Dr. Shoemaker has been appointed Surgeon General of the State of Pennsylvania by the Governor of that State.

He was presented with a sword by the students of the Medico Chirurgical College, on February 7, 1899. Prof. Ernest La-Place made the presentation address. This is a well deserved honor to Prof. Shoemaker.

MEDICO-LEGAL SOCIETY OF PHILADELPHIA.—At the annual meeting the following officers were elected: President, Dr. E. B. Wheeler; First Vice-President, Dr. A. M. Eaton; Second Vice-President, Dr. L. H. Adler; Treasurer, Dr. I. M. D. Peltz; Secretary, C. H. Clerwell; Librarian, Dr. J. D. Nash.

LIEUT.-COL. NICHOLAS SENN.—The Medical Sentinel, in its March number, publishes a full-length portrait of Col. Senn, Surgeon General of Illinois.

ANNUAL REPORT OF THE TOXICOLOGIST OF THE MEDICO-LEGAL SOCIETY.

To the President and Fellows of the Medico-Legal Society:

The year that has passed has been a most eventful one in the history of the nation. The late war with Spain has demonstrated, in a practical way, the advance that has been made in the modern scientific method of warfare, and it has also shown the great necessity of having attached to the regular army and navy a corps of scientific men of the highest standard to have special sanitary charge of the Public Health and Food Inspection of our soldiers and sailors. The environments have been such during the past years as to retard scientific advancement; but this very condition has been an important factor in developing new lines of investigation. Let us sincerely hope that our united efforts will be early directed towards trying to obtain the release of the unfortunate Mrs. Maybrick. I personally feel that an innocent woman is suffering an unjust penalty. I have lately seen and conversed with a former London chemist's clerk who had known Mr. Maybrick and had time and again sold him arsenic, and as much new evidence has collected since the trial, let us use our united influence on behalf of this unfortunate woman.

Thanking you for the honor you have seen fit to bestow upon me by my re-election, I will endeavor to the best of my ability to further the interests of the Medico-Legal Society.

WM. B. McVEY,
Toxicologist.

College of Physicians and Surgeons,
Boston, Mass., January 1, 1899.

JOURNALS AND BOOKS.

HYPNOTISM. By Otto Geo. Wetterstrand, M. D. Translated by Henrick G. Petersen, M. D., with letters on Hypno-Suggestion. G. P. Putnam's Sons, N. Y. and London.

We are glad to see an English translation of this work which has aroused much interest in psychical circles. Dr. Wetterstrand is a leading physician in Stockholm, and the work was written in the Swedish tongue. Dr. N. Dal translated it into Russian and the author translated it into German.

Messrs. Putnam Sons should be encouraged for bringing out an English translation, and Dr. Peterson, of Boston, is entitled to the thanks of the profession, not only for the translation, but for his contribution on hypnosis in its broadest psychological phases. Medical men will do well to study Dr. Wetterstrand's book from its clinical side.

The day is past when medical men who wish to keep abreast of the progress of scientific advance, ignore and reject the thereapeutic value of suggestion in the treatment of disease.

NERVOUS AND MENTAL DISEASES. By Prof. Archibald Church, M. D., of Chicago, and Frederick Peterson, M. D., of N. Y. 843 pp. W. B. Sanders, Philadelphia, 1899.

This work is a joint production of the two authors. Prof. Church contributes the first 600 pp. The first or opening is devoted to the study of neurology, and is divided into eight parts. Dr. Peterson treats of mental diseases from the standpoint of the psychiatrical, and he divides his work into 13 chapters, embracing 164 pp., in which he deals with the definition, classification, etiology, symptomatology and the diagnoses and prognoses of insanity in the first five chapters, with its final treatment, and the remainder to the several forms of insanity under his classification which are each separately treated. The work is splendidly brought out by the publisher and is profusely illustrated. Dr. Church has given great research and labor to the work, of which he contributed the major part.

It is well worth a careful study by the students of mental medicine, of which it is an admirable text book.

THE LAWS OF NEW JERSEY relating to Banks and Banking, Trust Companies and Safe Deposit Companies. Revision of 1899. By James B. Dill, Esq., State Bank Dept. of N. J., 1899.

THE LAWS OF NEW JERSEY relating to Corporations: as amended in 1899, with notes. By James B. Dill, Esq. Published by State Dept. of New Jersey, 1899.

Mr. James B. Dill, of the New Jersey Bar, has published through the State Department two valuable Brochures. The prior one contains an explanatory review and notice of the laws. The report of the committee and tables showing the derivation of the Banking law and the Trust Co. law, and publishes the text of the law establishing Department of Banking and Insurance (Chap. 6, Laws of 1891). The Banking Law (Laws of 1899, Chap. 173). The Trust Company Law, (Laws of 1899, Chap. 174). The Safe Deposit Co. Law, (Laws of 1899, Chap. 175), and the General Repealing Act, (Laws of 1893, Chap. 177), with a good index.

The second Brochure is the Amendments of 1899 of the New Jersey Laws, relating to corporations, (Chap. 66, Laws of 1899, approved March 21, 1899; Chap. 120, approved March 23, 1899; Chaps. 150 and 176, approved March 24, 1899, and Chap. 213, approved March 24, 1899.

THE ARENA. Paul Tyner, editor, Boston, Mass. This journal commenced its 20th Vol. by the January number, 1899. The table of contents of that number is attractive and from it we select two for notice.

Charles Dudly Warner made a radical and most interesting address before the National Prison Association Congress, held at Indianapolis last October, which he entitled, "The Making of Criminals," and which is published in the January Arena.

Mr. Warner looks at crime and its suppression or rather prevention from its educational and economic side.

His views are an indictment of our present system of treating crime as vicious; and he claims that a wise economy, would reduce the volume of crime, the number of criminals and curtail enormously our present costly system as a burden to the state.

As to the criminal himself and his treatment Mr. Warner says, "the best method for the treatment of the criminal is coming rightly or wrongly to be called the Elmira System."

The paper as a whole is one of the best defences of the Elmira System we have ever seen latterly and Mr. Warners' theories of the criminal and of crime in the abstract must arrest the criminologist of our day.

Judge Walter Clark in the same number makes a scathing attack on the plan inaugurated at the Bankers' Association as far back as 1889, to induce the bankers and large capitalists to influence the education of the youth of the nation, by large endowments for the purpose of establishing a school or schools of finance in our institutions of learning. Judge Clark assails Prof. James, of Harvard, for catering to this sentiment, in an address delivered by him before the association in 1890, and quotes him as saying to the bankers "that it was a pleasure to discuss the subject of establishing such schools before a body of men who have unusual means of influencing public opinion in regard to it" and adding that "it was possible to revolutionize every college in the country." He reported that Mr. Wharton had already secured the establishment of one such school at the University of Pennsylvania, by the gift of $100,000 to that university.

The Bankers' Association adopted a plan for these schools in which the necessity of "preserving great estates," is brought forward, as well as that the students of institutions thus aided "be instructed as to the necessity of permanent uniformity or integrity of the coin unit."

This sort of a bait is thrown out to the struggling colleges of the nation whose main needs are money to advance these plans of educational development,

Judge Clark denounces all this in scathing terms. His paper is headed after the old proverb "Beware of the Greeks, especially when they bear gifts" and he likens the scheme to the Turkish Janizaries where christian boys taken from their parents when young, are reared and educated as Mohammedans and then used as a select body of troops to repress the aspirations for liberty of those of their own blood.

While we do not share the fears of Judge Clark as to the results of money thus invested by the millionaires who, under the policy of the Bankers' Association might serve, to infuse the virus he dreads, by instillation into the youth of our American colleges, through such chairs or system of instruction; it is well to observe the breadth and depth of the movement and how easy it would be to interest some of the best though not the wealthiest of our American colleges, by such a gilded bribe as $100,000 here or there to a struggling institution.

The genious of our country is against the preservation of large estates. Our system militates against it.

With the enormously increasing number of millionaires in America, greatly in excess of any other land, relatively to the population, there is no way of perpetuating wealth through many generations here. The influence of money cannot be underestimated on colleges and college education. No scheme can be devised which would preserve a great estate more than four generations. We do not think the history of the country would find one instance extending for a longer period than four or at most five generations. It splinters into fragments as it should by a destiny that seems an inexorable law and good it is for the Commonwealth that such is the truth.

Most of the millionaires have started life without a penny. Those who inherit great wealth and who do not themselves acquire it, are as a rule quite incapable of retaining it for two or even three generations,—but Judge Clark is right in seeking to keep the colleges free and clean of such an element. The springs of these fountains of the nation's life should be pure and uncontaminated; and we cannot be too jealous of any befouling of the waters which are to be tasted by the youth of the nation.

L. Exercise de la Medicine et le Charlatanisme. By Prof. P. Brouardel, Professor of Medical Jurisprudence, Dean of the Faculty of Medicine of the University of Paris, and J. B. Bailliere et fils. Paris, 1899. pp. 564. 8vo.

This work completes the series of seven volumes, which this talented author has contributed in his course of Medico-Legal Studies, all of which have been published and will form a completely rounded work on some of the most important themes connected with Forensic Medicine. Last year he published "La Responsibilite Medicale."

The article, published in our columns, of Prof. Brouardel is the preface of this work. The volume is divided into six parts and is closed by an appendix. The first part treats of "The Law of 30 Nov., 1892," which is carefully studied in every section and as to all the subjects it attempts to regulate. The second part is devoted to "The Responsibility of the Physician in the Practice of his Profession," and subdivides it into five subdivisions, the third of which is Choice of Remedies; the fourth as to Syphilis, the fifth Insanity, and he gives in addition, as distinct headings, one on Surgery and one on Obstetrics.

Part third of the work treats of Articles 909–911 of the Civil Code, relating to testamentary disposition, or gifts made by patients who are treated by physicians in their last illness, or on their death beds.

The fourth part of the work relates to the compensation the physician should receive, and to which he is entitled by the law and by the usages and practice of his profession, and carefully goes over the duties for his clients, to the State, to the public and the great charitable institutions.

The fifth part is devoted to the relation between the physician and his patients in suits of malpraxis, and in all questions where charges are made against the physician by those he has treated, or who are injuriously affected by his professional conduct.

The sixth part is devoted to charlatanism and the illegal practice of medicine.

The appendix discusses questions arising under the laws in other cases, omitted in the main work, in various exceptional cases.

The work, as a whole, must be received by the medical profession, not alone of France but of the world, as a splendid acquisition to medico-legal knowledge.

It is carefully done, exhaustively treated, and each department classified so as to make it of great value to the student, and a necessity for the medico-legal expert who goes into court as a witness in cases before the tribunals of justice.

BOOKS, PAMPHLETS AND JOURNALS RECEIVED.

W. SCHEPPEGRELL, A. M., M. D. Perichondritis and Necrosis of the Arytenoid Cartillage, (1898).

ALFRED A. REGUNBERGER. Why Sycosis? A plea for the abolition of the term, (1899).

DR. VILLERS. Member of the Societe 'de Medecine Mentale de Belgique. "Delirium Tremens."

HON. HENRY D. CLAYTON, Alabama. "Hanna-Payne Shipping Bill." By Samuel D. Robinson, M. D., (1899).

JUDGE G. M. DODGE. Report of Commission on conduct of the war, (1899).

N. O. WALKER, M. D., Detroit, Mich. "Appendicitis," (1899).

AMERICAN BAR ASSOCIATION. Annual report for 1898.

DR. HERMAN KORNFELD, Grotkau, Silesia. Tod in Folge Von Peurphigus oder Fleischvergiftung. (1889). Monatsschrift fur Unfallheitkunde, No. 3, (1899). Zeitschrift fur Medizinalbeante, No. 6, (1899).

MAGAZINES.

MIND. John Emery McLean, editor. The March No., 1899, has as a leader, an interview by the editor on "New Thought," and cognate subjects which will be read with interest. It has an attractive table of contents for the month.

This journal is a monthly devoted to psychology, metaphysics and occultism. Its price is $2.co a year; single copies, 20 cents.

THE BOOKMAN, Dodd, Mead & Co., N. Y., is a monthly published at $2 00 per annum; 25 cents a single copy.

It is one of the best of the illustrated literary journals, ably edited, and very well illustrated and keeps well abreast of the literature of the day.

THE COMING AGE. B. O. Flower, Mrs. C. K. Reifsnyder, editors, Boston and St. Louis, $2.00 per annum; single copies, 25 cents.

Mr. B. O. Flower, of the Arena fame, launched a new journal in January of this year, with much of the energy and enthusiasm he demonstrated in founding the Arena.

The opening number had a portrait of Judge Quincy and his views on Municipal Progress.

Art and Manhood by Wm. Ordnay Partridge.

The Society of Psychological Research by Richard Hodgson, LL. D.

The February number contains a portrait and sketch of Louise Chandler Moulton, with her reminiscences of eminent Europeans.

An editorial sketch of Hezekiah Butterworth, and a most interesting sketch by him of the Andean Republics of South America and their struggles for liberty from Spanish aggression and misrule. An editorial sketch of Samuel T. Dutton and his views on the New Education.

Among the essays is an interesting one from Ernest H. Crosby an account of his recent visit to Tolstoi.

ARCHIVES OF NEUROLOGY AND PSYCHO-PATHOLOGY. A new quarterly of great interest and value to the profession, is published under the auspices of the New York State Hospitals and the Pathological Institute, by permission of the State Commissioners in Lunacy. It is edited by three Superintendents of State Hospitals for the Insane, G. Alder Blumer of Utica, Charles W. Pilgrim, M. D., and Selden H. Talcot, M. D., in behalf of the State Hospitals, and by Ira Van Giesen, M. D., Boris Sidis, Ph. D., and Henderson B. Deady, M. D., for the Pathological Institute. Its price is $3.00 per annum. It is, as we understand it, intended to supersede the State Hospital Bulletins.

Numbers 1 and 2 of the Archives contain an article on "Nervous Energy," by Ira Van Giesen and Boris Sidis.

"Correlation of Sciences in the Investigation of Nervous and Mental Diseases," by Ira Van Geisen, M. D.

No. 3 of Vol. I. contains a most complete and exhaustive treatise, entitled "Studies of Ganglion Cells," by James Ewing, M. D., of Columbia University, N. Y., a Clark Fellow of Pathology. It is beautifully illustrated with six plates, and is entitled to be placed at once as a classic and authority on the literature of this subject.

Dr. Ewing is entitled not alone to the thanks of the profession, for this admirable work, but to its recognition from the scientific press

Smith Ely Jelliffe, A. B., M. D., contributes the bibliography of the Cystology of the Nerve Cell, and he credits Dr. James Ewing and Mr. O. Hensel with assistance in the preparation of the bibliography, which is very elaborate and occupies 24 pages of the journal.

THE WESTERN RESERVE LAW JOURNAL is a monthly, published by the students of the Backus Law School of the Western Reserve Univer-

sity, C. D. Friebolin, Editor-in-chief; H. W. Ewing, Business Manager, both of the class of '99, and seven Associates, two of whom are of '99 and the rest of 1900.

F. M Cobb, Esq., of Cleveland, O., contributes an interesting historical article on "The Early English Courts" to the February number.

Fred. W. Green, Esq., of Cleveland, O., contributes a scholarly paper on "Payment of Negotiable Paper Under a Mistake of Fact."

He holds that it can be, taking the case of F., who executes a promissory note, forging the name of M. as maker and sells the note to P., who is ignorant of the forgery, who presents it to M., who, supposing it to be genuine and ignorant of the forgery, pays it.

The question is discussed from the standpoint of the elementary principles of law that should govern it.

Mr. Green criticises the dicta and discussion of Lord Mansfield, in Price v. Law, 3 Burr. 1354, but concludes that Price v. Neal is law, though bad in principle, and should be remedied by statutory enactment.

He applies the same reasoning to a case cited in Harvard Law Review 297–302, and says a recovery is allowed when the mistake is as to the signature of the endorser, (Keener on Quasi Contracts 154 n. 1; Harv. Law Review, 297–307; Daniel on Neg. Ins, Sec 1364–5) and that a recovery may be had when the body of the instrument had been altered.

The Journal assails, editorially, the announcement of Columbia that, beginning with 1903, only graduates of colleges will be admitted.

It insists that any Law School that does not make provision for high school men who, for some reason, are prevented from taking a college course, is going wrong.

Harvard gives special students, who have an average standing in examinations above a certain mark, the degree of LL. B.

While many object to the Law School system of legal education as bad in principle, and would prefer a careful education and training in a lawyer's office, as much better for the future lawyer, as was the rule before the Law School system was inaugurated, the Law School should not be condemned.

Practical and successful lawyers at the bar realize and recognize the inferiority of a legal education based only on a college graduation and a law school diploma, more than presidents of colleges or faculties of law schools, unless they are lawyers in practice. How many graduates of Columbia Law School, for example, now, or worse after 1903, would be competent to take position of a managing clerk in a New York City lawyer's office? Very few, if any, unless they had some experience in the practical work of the law office.

Most lawyers of experience would prefer their own sons not to enter a law school at all, but after careful study with tutor, or after graduation at high school or college, pursuing their studies in the law office, coming in contact with the actualities of practice, under the direct guidance of the lawyer, and being daily in the courts, in actual rather than mock trials.

This was the school that produced some of the great lawyers of our country, and Columbia in closing its doors, after 1903, to all but college men, will not elevate legal education, and might drive some men who, like Martin Grover, won his way to the highest place as an advocate and a jurist in our State, to the knowledge that the Law School is not the only or the best place to pursue a course of legal education, who has higher ideals of the study of the law than is furnished in the curriculum of study in the Law school.

THE METAPHYSICAL MAGAZINE. A monthly devoted to the advanced thought of the age, Scientific, Philosophic, Psychic and Occult. Leander Edmund Whipple, editor. $2 a year, 25 cents a number.

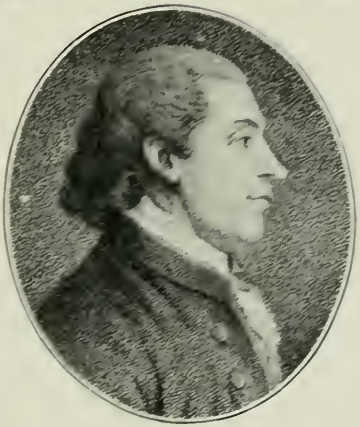
A leading feature of this journal is introduced in the February number, "The World of Thought," with editorial comment in the nature of a Philosophical Review. The journal is an ideal one for the student of Metaphysics, Philosophy, Psychology, aud the whole field of advanced thought.

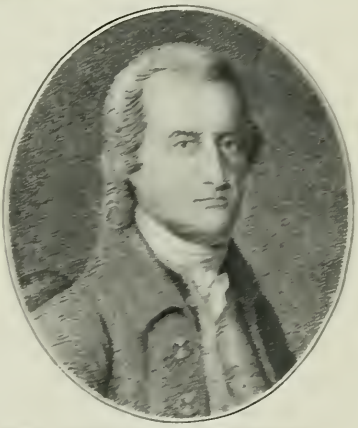
SUPPLEMENT.

ANDREW ADAMS, LL. D.

EX-ASSOCIATE JUSTICE SUPREME COURT OF CONN.

He was the son of Samuel and Mary [Fairchild] Adams. He was born in Stratford, Connecticut, on December 11th, 1736; graduated at Yale College, New Haven, in the class of 1759—60, and soon after settled as a lawyer at Litchfield, Connecticut, where he spent the remainder of his life. Andrew Adams was successively King's Attorney, Judge of Probate, States Attorney, Speaker of the House, (1779–1780), member of the State (Conn.) Legislature, (1776–81), Assistant Senator, member of the Continental Congress, Lieutenant Colonel (Jan., 1780,) and Colonel (Oct., 1780,) of the Seventeenth Regiment Connecticut Line. He was appointed with William Williams and Elisha Dyer, a commissioner from Connecticut to meet the Commissioners from New York, Massachusetts and Rhode Island, at Hartford, in May, 1780. He participated in the drawing up and signing of the Articles of Confederation. He was a member of the Marine Commission, appointed by Congress, with Mr. Gerry and Mr. Duer. This Marine and Commerce Commission (Journal of Congress, Vol. 2, page 642) were empowered to demand the arrest of inimical and dangerous persons, also to meet with those from other States "at such times and places as shall be hereinafter named, to consider what may be proper and necessary for the fleet and for the army, and to put the United States upon a mutually advantageous footing with that of Great Britain, also to be vested with such power as to contract





EX-CHIEF JUSTICES OF THE SUPREME COURT OF CONNECTICUT.

STEPHEN MIX MITCHELL. LL. D.
1907—1814
From an etching by Albert Rosenthal.

WILLIAM SAMUEL JOHNSON. LL. D.
1736—1819.
Etched by Albert Rosenthal from the painting by Gilbert Stuart.

SAMUEL HUNTINGTON.
1785—1817.
From an engraving by J. B. Longacre.

JONATHAN TRUMBULL.
1796—1809
Engraved by E. Mackenzie from a painting by Col John Trumbull.

OLIVER WOLCOTT.
1760—1796.
Engraved by J. Longacre from a painting in Delaplaine's Gallery.

From advance sheets Supreme Court of the States and Provinces of North America.

with such agents as may be appointed by the army of his Most Christian Majesty." During Andrew Adams' term in the Continental Congress, he was in constant correspondence with many of the leading patriots; some of these letters are at present in the possession of one of his lineal descendants.

On the organization of the Supreme Court of Errors, in 1784, Judge Adams was chosen one of the Associate Justices of that court, and he served as such until 1789. He was appointed one of the Justices of the Superior Court of Connecticut May, 1789, and served as such until he was chosen Chief Justice, in 1793, serving until 1798. While the Superior Court was not the highest judicial tribunal in the State, before the organization of the Supreme Court of Errors, its Chief Justices were styled Chief Justices of Connecticut, as was done in this case by the press at his death, alluding to his position in the Superior Court.

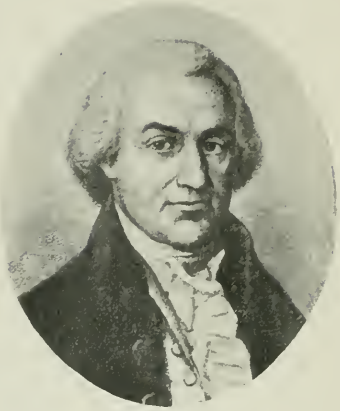
The following held the position of Chief Justices of the Superior Court prior to the organization of the Supreme Court of Errors, in 1784: Gordon Salstonstall, or in his absence, Nathan Gold, Deputy Governor, from May, 1711 to 1712; William Pilkin was Chief Justice 1713–1714; Nathan Gold was Chief Justice in 1714–1723; Peter Burr, 1723–1725; Jonathan Law, 1725–1741; Roger Wolcott, October, 1741, to 1750; Thomas Fitch, 1750–1754; Wm. Pitkin, 1754–1766; Jonathan Trumbull, 1766 to 1769; Matthew Griswold, 1769 to 1784.

Andrew Adams was deeply read in theology, and in the absence of his minister, the Rev. Judah Champion, was often called to occupy the pulpit. He was a very frail man, physically, never free from a lurking sense of pain, yet he was constantly to the fore in every good work. In the Litchfield Monitor, November 29th, 1797, was printed the following: "Died in this town, early yesterday morn-

ing, after a lingering and distressing illness, the Honorable Andrew Adams, Esq., LL. D., Chief Justice of Connecticut." Of Andrew Adams' ability as a lawyer, Judge Church, in his Litchfield Centennial Address, said, "The Honorable Andrew Adams, Chief Justice of Connecticut, was a man whose eminent talent shone with uncommon lustre, and whose talents were always exerted to the greatest advantage of the public and to the honor of the high court over which he presided."

The Hon. Seth Beers, on the same occasion, said, "Few men excelled Andrew Adams as a lawyer. As an advocate before a jury he was unsurpassed. He was an able judge, an eloquent speaker, and in all points his reputation at the bar was distinguished.

NOTE.—This sketch was contributed by Laura Dayton Fessenden, a lineal descendant of Judge Andrew Adams.



EX-ASSOCIATE JUSTICES SUPREME COURT OF CONNECTICUT.

HON. ELIPHALD DYER, LL. D.,
1766–1793.

SIMEON BALDWIN,
1806–1818.

HON. OLIVER ELLSWORTH, LL., D.,
1784–1785.

RICHARD LAW, LL. D.,
1784–1785.

From Advance Sheets Supreme Court of the States and Provinces of North America.

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